

Rehberg, Coal-State Members Launch Congressional Coal Caucus

01/26/10

Rehberg, Capito, Altmire, Holden, Salazar and Shimkus Lead Effort to Provide Voice for Coal in House

WASHINGTON – As energy issues remain at the forefront of the national political debate, a coalition of coal-state members of Congress announced today that they have teamed-up to form the Congressional Coal Caucus.

Calling coal “America’s most abundant and affordable energy resource,” the bipartisan group of congressmen and women note that coal provides nearly 50% of America’s energy supply and generates more than 130,000 coal-mining jobs. They’ve pledged to use their new caucus to provide a voice for coal communities in Congress.

“Coal is a critical component to our nation’s energy future,” said Rep. Shelley Moore Capito, R-W.Va. “Whether it’s on a cap-and-trade bill or on clean coal technology, this caucus will give coal-states a forum to highlight their priorities and present a unified voice. I’m proud to join my colleagues in forming this caucus and I look forward to our work together.”

“As a Congress, it is vitally important that we continue to support the development of clean coal technologies,” Rep. Jason Altmire, D-Pa., said. “I am proud to help launch this caucus, and I look forward to working with my colleagues to help enact policies that will maximize America’s coal resources.”

Members joining Altmire and Capito in forming the coal caucus include Reps. Tim Holden (D-PA), Denny Rehberg (R-MT), John Salazar (D-CO) and John Shimkus (R-IL). Together the new coalition will promote awareness of American coal along with the new technologies currently on the horizon that can help make coal use cleaner and safer.

The six initial caucus members are also circulating a Dear Colleague inviting other members of Congress to join them.

“The Coal Caucus gives coal states like Pennsylvania a strong voice in Congress to encourage the use of coal as an affordable, reliable and increasingly clean source of energy,” said Rep. Tim Holden, D-Pa. “I am proud to be a part of this effort to promote economically and environmentally sound mining, reclamation and consumption practices including clean coal technologies on Capitol Hill.”

“America needs an all-of-the-above energy plan that increases domestic supplies, lowers costs and makes us less dependent on foreign sources of energy,” said Rep. Denny Rehberg, R-Mont. “While many in Washington may think that energy comes from the wall outlet, Montanans have been in the energy production business long enough to understand the vital role coal plays in our

country and our economy. As a caucus, we'll focus on developing cleaner and more efficient ways to use America's vast stores of coal, and by doing so, help create good-paying jobs and affordable energy for American families."

"Coal is a vital resource in Colorado and throughout the nation, and will continue to play a role in helping meet our nation's energy needs. Coal provides jobs in my district and nearly all of our energy is derived from coal. I look forward to working with my colleagues on the Coal Caucus," said Rep. John Salazar, D-Colo.

"With the current debates over energy policy as well as the environment, it is more important than ever that coal interests be represented in Congress," said Rep. John Shimkus, R-Ill. "We can move much faster toward energy independence by taking advantage of the enormous supply of coal that exists in my district and elsewhere in the nation. To ignore an abundant source of low-cost energy in our own country is absurd."

MONGOLIA/FORWARD

A MONGOLIAN URANIUM VENTURE

NEWS RELEASE

For Immediate Release: May 21, 2010

Mongolia Forward Announces Negotiations with MonAtom

Mongolia Forward, a United States based company, has entered into negotiations with MonAtom, Mongolia's State-owned uranium development company, to create a Mongolian joint venture company to explore, mine and process uranium in Mongolia. In accordance with the recently enacted Mongolian Nuclear Energy Law, MonAtom would take ownership of 51% of the project which will initially focus its efforts on uranium exploration within Mongolia.

The project is led by American businessman and entrepreneur Leo A. Giacometto who serves as Chairman and CEO of Mongolia Forward. Mr. Giacometto has a long history of working in Mongolia. First, as a Chief of Staff to a United States Senator he helped bridge the gap between American and Mongolian foreign policy goals. Most recently he is credited with bringing international business opportunities to Mongolia in an effort to strengthen the economic relationship between Mongolia and the United States. Mr. Giacometto and his company, GAGE International, are key advisors on multiple projects in Mongolia including the joint venture between Pepsi-Co International and GN Beverages to produce, bottle and distribute Pepsi products in Mongolia as well as Gemnet, a Mongolian wholesale internet service provider. Gemnet and its partners will begin delivering a high capacity, low latency transit route between Europe, Asia and the United States later this year and are currently providing connectivity between Mongolia and the United States.

Mongolia Forward will bring the world's best standards and practices to Mongolia's uranium mining sector. "This is a great opportunity for the people of Mongolia to improve their economic stability and implement sustainable mining practices in Mongolia," said Giacometto. This will be the most promising joint venture to date between MonAtom and a US company in the uranium mining sector. "We intend to work side by side with MonAtom and the Mongolian Government to create a successful and sustainable uranium fuel sector in Mongolia."

"Mongolia Forward has assembled a top-notch team of industry leaders and experts to ensure the long term success of this project," Giacometto remarked, "we are all excited to begin the process of formally developing this joint venture with MonAtom." MonAtom's Chairman and Chief Executive Officer Badamdandin Ragchaa was recently given the task of elevating Mongolia's uranium production to that of other world leaders. "We are confident that we can compete with the current major producers of uranium," said Badamdandin. Mongolia Forward will help MonAtom achieve this goal.

Mongolia Forward's board of directors consist of seasoned uranium mining businessmen, high level political, financial and strategic members, as well as notable successful Mongolian businessmen.

Board of Directors;

Leo A. Giacometto, Founder of Mongolia Forward, GAGE International, Mongolian Pepsi franchise and a former Magistrate, US Marshal, Cabinet Secretary, Morrison Knutson International Engineering and Mining Company Executive, US Senator's chief of Staff and retired US Army Reserves.

Jon J. Indall, Partner at the Comeau, Maldegen, Templeman & Indall Law Firm and counsel for the Uranium Producers of America;

Ambassador John Bolton, the former US Permanent Ambassador to the UN and US Undersecretary of State for Arms Control and International Security;

Ganzorig Regzendorj, CEO of G-Mobile and General Director of Magnai Trade;

Jeffrey A. Forbes, Founder of Cauthen, Forbes & Williams and a former President Clinton Administration official, US Senator's Chief of Staff and Obama Presidential Campaign official.

Matt Wayrynen, the Chief Operating Officer of Berkeley Resources Inc. and Vice President of Operations for Bralorne Gold Mines LTD;

Rich D. Ziegler, Founder of Intergraded Production Resources, Former EXVP of Cotter Corporation and a past Director of the National Mining Association;

Tserenpuntsag Tsedendamba, the Founder and owner of Gem International and Gemnet of Mongolia.

For additional information visit www.mongoliaforward.com, or contact AJ Rehberg, Vice President of Public and Government Affairs, AJ.Rehberg@MongoliaForward.com.

Mongolia / Forward
122 C Street NW, Suite 380
Washington, DC 20001
www.mongoliaforward.com

Supplemental Statement
Pursuant to the Foreign Agents Registration Act of
1938, as amended

For Six Month Period Ending 6/30/2011
(Insert date)

I - REGISTRANT

1. (a) Name of Registrant

(b) Registration No.

GAGE International, LLC

6011

(c) Business Address(es) of Registrant

122 C Street, NW
Suite 380
Washington, DC 20001

2. Has there been a change in the information previously furnished in connection with the following?

(a) If an individual:

(1) Residence address(es)	Yes <input type="checkbox"/>	No <input type="checkbox"/>
(2) Citizenship	Yes <input type="checkbox"/>	No <input type="checkbox"/>
(3) Occupation	Yes <input type="checkbox"/>	No <input type="checkbox"/>

(b) If an organization:

(1) Name	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
(2) Ownership or control	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
(3) Branch offices	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

(c) Explain fully all changes, if any, indicated in Items (a) and (b) above.

HSD/CES/REGISTRATION UNIT
2011 JUL 29 AM 10:04

IF THE REGISTRANT IS AN INDIVIDUAL, OMIT RESPONSE TO ITEMS 3, 4, AND 5(a).

3. If you have previously filed Exhibit C¹, state whether any changes therein have occurred during this 6 month reporting period.

Yes ☐ No ☐

If yes, have you filed an amendment to the Exhibit C? Yes ☐ No ☐

If no, please attach the required amendment.

¹ The Exhibit C, for which no printed form is provided, consists of a true copy of the charter, articles of incorporation, association, and by laws of a registrant that is an organization. (A waiver of the requirement to file an Exhibit C may be obtained for good cause upon written application to the Assistant Attorney General, National Security Division, U.S. Department of Justice, Washington, DC 20530.)

IV - FINANCIAL INFORMATION

14. (a) RECEIPTS-MONIES

During this 6 month reporting period, have you received from any foreign principal named in Items 7, 8, or 9 of this statement, or from any other source, for or in the interests of any such foreign principal, any contributions, income or money either as compensation or otherwise? Yes ☒ No ☐

If no, explain why.

If yes, set forth below in the required detail and separately for each foreign principal an account of such monies.⁶

Date	From Whom	Purpose	Amount
January 2011	Mongolian MFAT	Retainer	\$25,000
February 2011	Mongolian MFAT	Retainer	\$25,000
March 2011	Mongolian MFAT	Retainer	\$25,000
April 2011	Mongolian MFAT	Retainer	\$25,000
May 2011	Mongolian MFAT	Retainer	\$25,000
June 2011	Mongolian MFAT	Retainer	\$25,000
			<u>\$150,000</u>
			Total

(b) RECEIPTS - FUNDRAISING CAMPAIGN

During this 6 month reporting period, have you received, as part of a fundraising campaign⁷, any money on behalf of any foreign principal named in Items 7, 8, or 9 of this statement? Yes ☐ No ☒

If yes, have you filed an Exhibit D to your registration? Yes ☐ No ☐

If yes, indicate the date the Exhibit D was filed. Date _____

(c) RECEIPTS-THINGS OF VALUE

During this 6 month reporting period, have you received any thing of value⁹ other than money from any foreign principal named in Items 7, 8, or 9 of this statement, or from any other source, for or in the interests of any such foreign principal?

Yes ☐ No ☒

If yes, furnish the following information:

Foreign Principal	Date Received	Thing of Value	Purpose
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^{6, 7} A registrant is required to file an Exhibit D if he collects or receives contributions, loans, moneys, or other things of value for a foreign principal, as part of a fundraising campaign. (See Rule 201(e)).

⁸ An Exhibit D, for which no printed form is provided, sets forth an account of money collected or received as a result of a fundraising campaign and transmitted for a foreign principal.

⁹ Things of value include but are not limited to gifts, interest free loans, expense free travel, favored stock purchases, exclusive rights, favored treatment over competitors, "kickbacks," and the like.

15. (a) DISBURSEMENTS-MONIES

During this 6 month reporting period, have you

(1) disbursed or expended monies in connection with activity on behalf of any foreign principal named in Items 7, 8, or 9 of this statement? Yes ☐ No ☒

(2) transmitted monies to any such foreign principal? Yes ☐ No ☒

If no, explain in full detail why there were no disbursements made on behalf of any foreign principal.

If yes, set forth below in the required detail and separately for each foreign principal an account of such monies, including monies transmitted, if any, to each foreign principal.

Date	To Whom	Purpose	Amount
------	---------	---------	--------

Total

VI - EXECUTION

In accordance with 28 U.S.C. § 1746, the undersigned swear(s) or affirm(s) under penalty of perjury that he/she has (they have) read the information set forth in this registration statement and the attached exhibits and that he/she is (they are) familiar with the contents thereof and that such contents are in their entirety true and accurate to the best of his/her (their) knowledge and belief, except that the undersigned make(s) no representation as to truth or accuracy of the information contained in the attached Short Form Registration Statement(s), if any, insofar as such information is not within his/her (their) personal knowledge.

(Date of signature)

(Print or type name under each signature or provide electronic signature¹³)

July 29, 2011

/s/ Leo A. Giacometto

eSigned

July 29, 2011

/s/ Ryan Thomas

eSigned

July 29, 2011

/s/ AJ Rehberg

eSigned

MSD/CES/REGISTRATION UNIT
2011 JUL 29 AM 10:04

¹³ This statement shall be signed by the individual agent, if the registrant is an individual, or by a majority of those partners, officers, directors or persons performing similar functions, if the registrant is an organization, except that the organization can, by power of attorney, authorize one or more individuals to execute this statement on its behalf.

ATTACHMENT A**FARA Reporting Period: 12/21/2011 - 6/21/2011****Section III, #12****Mongolian Ministry of Foreign Affairs**

1/13/2011	Anne Marie Chotvac	House Appropriations - State	Introduction as new representation
1/18/2011	Gus Grace	US Ex-Im Bank	Ex-Im Projects in Mongolia
1/19/2011	Ben Stoltzfoos	Representative Joe Pitts	US-Mongolia Bilateral Relations / Mongolia Caucus
1/28/2011	Anne Marie Chotvac	House Appropriations - State	US-Mongolia Bilateral Relations
1/31/2011	Lida Fitts	US Trade and Development Agency	USTDA Projects in Mongolia
2/1/2011	Alicia Campi	Mongolia Society	Annual Mongolia Society Meeting
2/2/2011	Brian Eisele	Representative Joe Wilson	US-Mongolian Relations / Mongolian Caucus
2/16/2011	Michael Flannigan	Peabody Energy	US-Mongolia Bilateral Relations / Tavan Tolgoi
2/16/2011	Keith Luse	Senate Committee on Foreign Relations	US-Mongolia Bilateral Relations
2/21/2011	Bill Edwards	SPAWAR Staff	US-Mongolia Military Relations
2/23/2011	Steve Saunders	North American - Mongolian Business Council	US-Mongolia Bilateral Relations / Trade Opportunities
2/23/2011	Gordon Flake	Mike and Maureen Mansfield Foundation	US-Mongolia Bilateral Relations / Foundation Activities
2/24/2011	Rep. Denny Rehberg	Representative Denny Rehberg	US-Mongolia Bilateral Relations / Mongolia Caucus
2/24/2011	Rep. Rodney Alexander	Representative Rodney Alexander	US-Mongolia Bilateral Relations / Mongolia Caucus
2/24/2011	Ben Stoltzfoos	Representative Joe Pitts	US-Mongolia Bilateral Relations / Mongolia Caucus
2/24/2011	Jessica Lee	Representative Jim McDermott	US-Mongolia Bilateral Relations / Mongolia Caucus
2/25/2011	Jessica Lee	Representative Jim McDermott	US-Mongolia Bilateral Relations / Mongolia Caucus
2/28/2011	Ben Stoltzfoos	Representative Joe Pitts	US-Mongolia Bilateral Relations / Mongolia Caucus
2/28/2011	Jessica Lee	Representative Jim McDermott	US-Mongolia Bilateral Relations / Mongolia Caucus
2/28/2011	Jay Martin	Representative Denny Rehberg	US-Mongolia Bilateral Relations / Mongolia Caucus
3/1/2011	Dr. Alicia Campi	Mongolia Society	US-Mongolia Bilateral Relations / Foundation Activities
3/2/2011	Ben Stoltzfoos	Representative Joe Pitts	US-Mongolia Bilateral Relations / Mongolia Caucus
3/2/2011	Kristin Smith	Representative Denny Rehberg	US-Mongolia Bilateral Relations / Mongolia Caucus
3/2/2011	Naz Durakoglu	Representative Weiner	US-Mongolia Bilateral Relations / Mongolia Caucus
3/2/2011	T.A. Hawks	Office of Senator Cochran	US-Mongolia Bilateral Relations / Presidential Visit
3/7/2011	Ben Stoltzfoos	Representative Joe Pitts	US-Mongolia Bilateral Relations / Mongolia Caucus
3/7/2011	Keith Luse	Senate Committee on Foreign Relations	US-Mongolia Bilateral Relations
3/7/2011	Atman Trivedi	Senate Committee on Foreign Relations	US-Mongolia Bilateral Relations
3/7/2011	Adam Terry	Representative Rodney Alexander	US-Mongolia Bilateral Relations / Mongolia Caucus
3/8/2011	John Lis	House Democracy Partnership	US-Mongolia Bilateral Relations / HDP Visit
3/8/2011	Charles Cogar	Representative Mike Coffman	US-Mongolia Bilateral Relations / Mongolia Caucus

ATTACHMENT A**FARA Reporting Period: 12/21/2011 - 6/21/2011****Section III, #12****Mongolian Ministry of Foreign Affairs**

3/8/2011	Matt McGinley	Representative Tom Price	US-Mongolia Bilateral Relations / Mongolia Caucus
3/8/2011	Stephen Martinko	Representative Bill Shuster	Background and Caucus Invite
3/9/2011	Mary Tung & Steven Over	Lockheed Martin	Mongolia Peacekeeping Capabilities
3/9/2011	Paul Callahan	Representative Joe Wilson	US-Mongolia Bilateral Relations / Mongolia Caucus
3/10/2011	Nien Su	House Committee on Foreign Affairs	US-Mongolia Bilateral Relations
3/10/2011	Paul Berkowitz	Representative Dana Rohrabacher	US-Mongolia Bilateral Relations / Mongolia Caucus
3/11/2011	Ariel Wyckoff	Friends of Mongolia / Department of State	US-Mongolia Bilateral Relations / FOM Activities
3/11/2011	Ambassador Ed O'Donnell	American Business Development Group	US-Mongolian Business Development
3/17/2011	Janan Sarkis	GWU School of Medicine	US-Mongolia Bilateral Relations / Education
3/17/2011	Ambassador Alphonse La Porta		US-Mongolia Bilateral Relations
3/18/2011	Graeme Hancock	The World Bank	US-Mongolia Bilateral Relations / Mining
3/18/2011	Nicole Sprinzen	US Department of Justice	International Extradition Policy
3/23/2011	Col. Jim Buchman	DOD DSCA	US-Mongolia Bilateral Relations / Foreign Military Financing
3/25/2011	Ben Stoltzfoos	Representative Joe Pitts	US-Mongolia Bilateral Relations / Mongolia Caucus
3/28/2011	Jessica Lee	Representative Jim McDermott	US-Mongolia Bilateral Relations / Mongolia Caucus
3/29/2011	Senator Dan Inouye	Senator Dan Inouye	US-Mongolia Bilateral Relations
3/29/2011	Senator Thad Cochran	Senator Thad Cochran	US-Mongolia Bilateral Relations
3/29/2011	Senator John McCain	Senator John McCain	US-Mongolia Bilateral Relations
3/30/2011	Representative Joe Pitts	Representative Joe Pitts	US-Mongolia Bilateral Relations
3/30/2011	John Ariale	Office of Congressman Crenshaw	Invitation to Caucus Event and Background
4/6/2011	Katy Quinn and Shana Chandle	Office of Congressman Smith	Invitation to Caucus Event and Background
4/6/2011	Jeff Small	Office of Congressman Tipton	Invitation to Caucus Event and Background
4/6/2011	Justin Rone	Office of Congressman Emerson	Invitation to Caucus Event and Background
4/6/2011	Jason Murphy	Office of Congressman Graves	Invitation to Caucus Event and Background
4/6/2011	Mike Matousek	Office of Congressman Sam Graves	Invitation to Caucus Event and Background
4/6/2011	Carrie Meadows	Office of Congressman Goodlatte	Invitation to Caucus Event and Background
4/6/2011	Allison Thigpen	Office of Congressman Kingston	Invitation to Caucus Event and Background
4/6/2011	John Goodwin	Office of Congressman Labrador	Invitation to Caucus Event and Background
4/6/2011	Ryan Stenger	Office of Congressman Gibbs	Invitation to Caucus Event and Background
4/6/2011	Anne Marie Chotvacs	House Appropriations - State	Invitation to Caucus Event and Background
4/6/2011	Bruce Evans	Senate Appropriations	Invitation to Caucus Event and Background
4/6/2011	Toni-Marie Higgins	Office of Senator Boozman	Invitation to Caucus Event and Background

ATTACHMENT A**FARA Reporting Period: 12/21/2011 - 6/21/2011****Section III, #12****Mongolian Ministry of Foreign Affairs**

4/6/2011	Greg Facchiano	Office of Congressman Heck	Invitation to Caucus Event and Background
4/6/2011	Paul Grove	Senate Appropriations - State	Invitation to Caucus Event and Background
4/6/2011	Tim Rieser	Senate Appropriations - State	Invitation to Caucus Event and Background
4/6/2011	Kristin Smith	Office of Congressman Rehberg	Invitation to Caucus Event and Background
4/6/2011	Atman Trivedi	Senate Committee on Foreign Relations	Senate Resolution for President's Visit
4/7/2011	Rep. Denny Rehberg	Representative Denny Rehberg	US-Mongolia Bilateral Relations
4/12/2011	Rep. Rodney Alexander	Representative Rodney Alexander	US-Mongolia Bilateral Relations
4/12/2011	Rep. Joe Pitts	Representative Joe Pitts	US-Mongolia Bilateral Relations
4/12/2011	John Selib	Senator Max Baucus	US-Mongolia Bilateral Relations / Mongolia Caucus
4/18/2011	Captain Eric Calton	Marine Corps Intelligence Agency	US-Mongolia Bilateral Relations
4/20/2011	Tabitha Williams	Federal Aviation Administration	US-Mongolia Bilateral Relations / Air Traffic Control
4/26/2011	Lt. Col. Jason Anderson	USAF SAF/IARP	US-Mongolia Bilateral Relations
4/26/2011	Erica Striebel	Representative Anders Crenshaw	US-Mongolia Bilateral Relations / Mongolia Caucus
4/27/2011	Erica Striebel	Office of Congressman Crenshaw	Invitation to join Mongolia Caucus
4/27/2011	Ben Stoltzfoos	Representative Joe Pitts	US-Mongolia Bilateral Relations / Presidential Visit
4/29/2011	Jessica Lee	Representative Jim McDermott	US-Mongolia Bilateral Relations / Presidential Visit
4/29/2011	Darryl Piggee	Representative William Clay	US-Mongolia Bilateral Relations / Presidential Visit
5/2/2011	Justin Johnson	Representative Todd Akin	US-Mongolia Bilateral Relations / Presidential Visit
5/2/2011	Rachel Hines	Representative Todd Akin	US-Mongolia Bilateral Relations / Presidential Visit
5/2/2011	Mike Holland	Representative Devin Nunes	US-Mongolia Bilateral Relations / Presidential Visit
5/2/2011	Atman Trivedi	Senate Committee on Foreign Relations	Senate Resolution for President Elbegdorj
5/3/2011	Gov. Bill Weld	McDermott, Will & Emrey	US-Mongolia Bilateral Relations / Mongolia Caucus
5/4/2011	Jessica Lee	Representative Jim McDermott	US-Mongolia Bilateral Relations
5/5/2011	Carrie Meadows	Office of Congressman Goodlatte	Follow up on introduction - Caucus invite
5/5/2011	Charlie Keller	Office of Congressman Adams	US-Mongolia Bilateral Relations / Caucus
5/6/2011	Steve Saunders	NAMBC	Mongolian President Corporate Reception
5/9/2011	Ambassador Addleton	US Embassy in Mongolia	US-Mongolia Bilateral Relations
5/16/2011	Ben Stoltzfoos	Representative Joe Pitts	US-Mongolia Bilateral Relations / Presidential Visit
5/17/2011	Ben Stoltzfoos	Representative Joe Pitts	US-Mongolia Bilateral Relations / Presidential Visit
5/18/2011	Ben Stoltzfoos	Representative Joe Pitts	US-Mongolia Bilateral Relations / Presidential Visit
5/19/2011	Andrew Person	Senator Max Baucus	US-Mongolia Bilateral Relations / Mongolia Caucus
5/20/2011	Ambassador Addleton	US Embassy in Mongolia	US-Mongolia Bilateral Relations

ATTACHMENT A

FARA Reporting Period: 12/21/2011 - 6/21/2011

Section III, #12

Mongolian Ministry of Foreign Affairs


5/21/2011	Yasmine Jamnejad	Congressman Jim Costa	US-Mongolia Bilateral Relations / Mongolia Caucus
5/23/2011	Barbara Pivnicka	San Francisco Global Trade Center	Mongolian President Visit
5/23/2011	Jim Wunderman	Bay Area Council	Mongolian President Visit
5/24/2011	Lt. Col. Jason Anderson	USAF SAF/IARP	US-Mongolia Military Relations
5/26/2011	Col. Jim Buckman	OSD/DSCA	US-Mongolia Military Relations
5/26/2011	Erica Brefka	OSD for Policy	US-Mongolia Military Relations
5/26/2011	Ross LaJeunesse	Google	Mongolian President Visit
5/26/2011	Juliet Kroll	Representative Corey Gardner	US-Mongolia Bilateral Relations / Mongolia Caucus
6/1/2011	Del Christiansen	Bay Area Council	Mongolian President Visit
6/3/2011	Davis White	Google	Mongolian President Visit
6/7/2011	Gilbert Nelson	Representative Jeff Miller	US-Mongolia Bilateral Relations / Mongolia Caucus
6/7/2011	Mark Milosch	Helsinki Commission	Mongolia Participation in CSCE
6/8/2011	Kristin Smith	Office of Congressman Rehberg	Invite to Presidential Reception
6/10/2011	Adrew Person	Senator Max Baucus	Senate Resolution for President's Visit
6/15/2011	Jonathan Ossoff	Representative Hank Johnson	US-Mongolia Bilateral Relations / Presidential Visit
6/16/2011	Janice Bashford	Representative Sheila Jackson Lee	US-Mongolia Bilateral Relations / Mongolia Caucus
6/16/2011	Jonathan Ossoff	Representative Hank Johnson	US-Mongolia Bilateral Relations / Mongolia Caucus
6/17/2011	Tressa Guenov	Senator Claire McCaskill	US-Mongolia Bilateral Relations / Mongolia Caucus
6/20/2011	Brian Diffell	Senator Roy Blunt	US-Mongolia Bilateral Relations / Mongolia Caucus
6/20/2011	Matthew Hermann	Representative Madeleine Bordallo	US-Mongolia Bilateral Relations / Mongolia Caucus
6/21/2011	Jonathan Ossoff	Representative Howard Johnson	H. 213 RARE Act
6/24/2011	Charles Cogar	Representative Mike Coffman	H. 213 RARE Act
6/27/2011			

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NSD/CES/REGISTRATION UNIT

NATIONAL REPUBLICAN CONGRESSIONAL COMMITTEE

Thursday, September 30, 2010



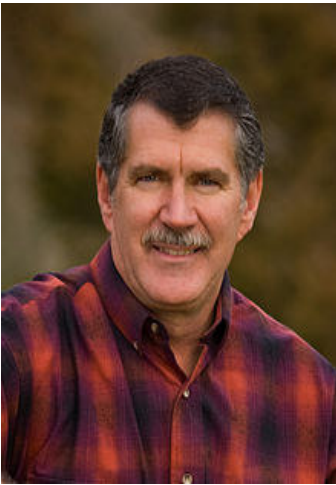
Event: Lunch with Congressman **Denny Rehberg** (MT-At Large)
Hosted by National Mining Association PACs, Newmont PAC and Peabody PAC
Time: 12:00 PM – 1:00 PM
Location: National Mining Association
101 Constitution Avenue, NW
Suite 500 East
Washington, DC 20001
Details: Host: \$2,500
Attend: \$1,000 PAC/\$500 Individual
Make Checks Payable to:
Rehberg for Congress
104 Hume Avenue
Alexandria, VA 22301
RSVP to Megan Foran, mforan@epiphanyproductions.com or (703) 683-7500

Thursday, September 30, 2010

Event: Congressman **Joseph Cao** (LA-02) Reception with NRCC Chairman **Pete Sessions** (TX-32)
Time: 5:00 PM – 6:30 PM
Location: Capitol Hill Club
300 First Street SE
Washington, DC
Details: \$2,500 per co-host, \$1,000 per PAC, \$500 per individual
Make Checks Payable to:
Joseph Cao for Congress
P.O. Box 56156
New Orleans, LA 70156
RSVP to Joe Rachinsky—joe@catalystgroupllc.com or 202.589.0720

Monday, October 4th, 2010

Event: ||Wisconsin Event|| Coffee & Kringles with Congressman **Tom Petri** (WI-06)
Time: 8:00 AM – 10:00 AM
Location: Wyndham Milwaukee Airport Hotel
4747 South Howell Ave.
Milwaukee, WI 53207
Details: Host \$500 / Sponsor \$250 / Individual \$100
Make checks payable to:
Citizens for Tom Petri, c/o Goeas & Associates
1707 Prince St. #5
Alexandria, VA 22314
Please RSVP with Carole Goeas at 703-684-8328 or Carole@GoeasAssociates.com



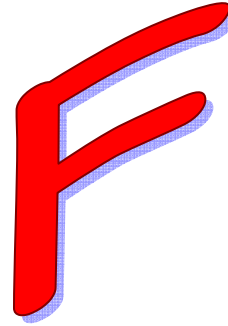
Name: Denny Rehberg

State: Montana

District: At-Large

Political Party: Republican

Committee Assignment: Appropriations



Prevents the Interior Department from updating rules to protect streams from the destructive practice of mountaintop removal mining.	Fail
Blocks efforts to clean up the Chesapeake Bay.	Fail
Prevents the EPA from protecting Florida's waters from harmful algal blooms, dead zones, fish kills and declines in wildlife habitat.	Fail
Stops the EPA from protecting Appalachia's environment and the health of its residents from mountaintop removal mining.	Fail
Prevents the EPA from vetoing egregious projects that destroy streams and wetlands and threaten public drinking water supplies and wildlife.	Fail
Stops the strongest safeguards on coal ash disposal, ignoring best available science and leaving communities at risk.	Fail
Drastically cuts funds from critical environmental programs and endangers public health and the environment.	Fail
Allows for pesticides to be applied directly to our waterways, endangering public health and surrounding ecosystems.	Fail
Stops EPA actions to ensure safe drinking water for 117 million Americans and protect streams, wetlands and other U.S. waters.	Fail
Allows for restoration work to continue in places like the Chesapeake Bay, Long Island Sound and the Great Lakes.	Fail
Continues legal safeguards for waters that provide economic benefits and flood protection.	Fail
Guts the Clean Water Act by replacing federal protections with inconsistent, state-by-state enforcement.	Fail

Note: "Pass" indicates a pro-environmental vote and "Fail" indicates an anti-environmental vote. "No Vote" indicates the member was absent for the vote, and these votes were not counted towards the report card score.

Denny Rehberg
State of Montana

**Transportation and
Infrastructure Committee**
Highways and Transit
Aviation

F8

Congress of the United States
House of Representatives
Washington, DC 20515

Agriculture Committee
Department Operations, Oversight,
Nutrition and Forestry, *Vice Chairman*
General Farm Commodities and
Risk Management
Specialty Crops and Foreign
Agriculture Programs

Resources Committee
Energy and Mineral Resources,
Vice Chairman
Forests and Forest Health

December 6, 2004



Surface Transportation Board
Attn: Kenneth Blodgett
Case Control Unit
Washington, DC 20423-0001

RE: STB Docket No. FD 30186 (Sub-No. 3)

Dear Mr. Blodgett:

I am writing to express my support for the Surface Transportation Board ("Board") to approve the Tongue River Railroad Company, Inc. ("TRRC") application for authority to construct and operate the Western Alignment in Tongue River Railroad Company, Inc. – Construction and Operation – Western Alignment, STB Finance Docket 30186 (Sub-No.3). The Western Alignment has been proposed to replace the southernmost 17-miles of the Four Mile Creek alternative alignment approved by the Board in 1996.

The Board issued a Draft Supplemental Environmental Impact Statement ("Draft SEIS") on October 15, 2004. The Draft SEIS addresses the environmental effects and proposed mitigation measures associated with the construction and operation of the Western Alignment. I am of the opinion the Western Alignment offers the most economic, efficient, reliable and safe operating rail alignment. With the mitigation measures proposed by the Board in the Draft SEIS, the construction and operation of the Western Alignment ensures the protection of our state's important natural resources and allow the State of Montana to recognize the economic benefits of this important infrastructure.

As a member of the House of Representatives committees on Resources, Agriculture, and Transportation and Infrastructure, I recognize the important role that coal plays in our nation's energy supply. The State of Montana's ownership of in excess of 630 million tons in the Otter Creek Tracts resulting from the Crown Butte Exchange legislation and resultant transfer of federal coal assets to Montana can play an important role in America's future energy supply. The Tongue River Railroad project provides the key transportation component necessary to develop these valuable assets.

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As I noted in my submittal to the Board in February 2003, the proposed Western Alignment provides the most efficient and dependable rail alignment. I urge the Board to act promptly in approving TRRC's Western Alignment application.

Thank you for your consideration. If I can provide any further information, please contact Jay Martin in my Washington office at 202-225-3211.

Sincerely,

A handwritten signature in black ink, appearing to read "Denny Rehberg". The signature is fluid and cursive, with a large initial "D" and a stylized "R".

Denny Rehberg
Member of Congress

cc. Roger Nober, Chairman



MSHA's Proposed Rule on Lowering Miners' Exposure to Respirable Coal Mine Dust, Including Continuous Personal Dust Monitors



October 14, 2010

Background

- Chronic exposure to respirable coal mine dust causes lung diseases such as coal workers' pneumoconiosis (CWP), emphysema, and bronchitis. These diseases, collectively referred to as Black Lung, can lead to permanent disability and death. There are measures that can prevent this disease; however, new cases of disease continue to occur among coal miners.
- Based on recent data from National Institute for Occupational Safety and Health (NIOSH), cases of black lung are increasing among the nation's coal miners. Even younger miners are showing evidence of advanced and debilitating lung disease from excessive dust exposure. Over the past decade, more than 10,000 miners have died from black lung. Furthermore, the federal government has paid out over \$44 billion in compensation for miners totally disabled by black lung since 1970, according to the department's Office of Workers' Compensation Programs.
- This proposed rule is an important element in MSHA's Comprehensive Black Lung Initiative to "End Black Lung – Act Now!" which also includes enhanced enforcement, collaborative outreach, and education and training.
- The proposal combines prior regulatory actions addressing Lowering Coal Mine Dust Exposure, Single Sample, Plan Verification, and the Continuous Personal Dust Monitor (CPDM).
- This proposal would implement recommendations contained in the 1995 *NIOSH Criteria Document on Occupational Exposure to Respirable Coal Mine Dust* and the 1996 *Secretary of Labor's Dust Advisory Committee Report on the Elimination of Pneumoconiosis Among Coal Mine Workers*.
- The proposal would significantly improve health protection for coal miners.

Requirements of the Proposed Rule

1. Lower the existing concentration limits for respirable coal mine dust.

- For underground and surface coal mines, from 2.0 milligrams of dust per cubic meter of air (mg/m^3) to 1.0 mg/m^3 over a 24-month phase-in period.
 - Of the 17,693 samples of miners' coal mine dust exposure submitted to MSHA by underground coal mine operators this year through August 31, 2010, the average concentration was 0.73 mg/m^3 . For surface miners, the average concentration submitted by mine operators was 0.46 mg/m^3 .
- For intake air at underground mines and for Part 90 miners (coal miners who have evidence of the development of pneumoconiosis) from 1.0 mg/m^3 to 0.5 mg/m^3 six months after the effective date of the final rule. Of the 2,804 MSHA samples of intake air collected this year through August 31, 2010, the average concentration was 0.14 mg/m^3 .
- Establishes a weekly exposure limit when a continuous personal dust monitor (CPDM) is used for sampling occupations on the MMU and for Part 90 miners.

2. Require the use of the continuous personal dust monitor (CPDM).

- Over a 12- to 18-month period, phase in the use of the CPDM – a new dust sampling technology developed with support of industry, labor and government – that provides a direct, real-time display of respirable coal mine dust concentrations, as opposed to the current sampling device that takes days or weeks to obtain results on miners' exposure.
- Operators would use CPDMs to continuously monitor underground coal miners in occupations exposed to the highest dust concentrations and Part 90 miners. Current sampling of miners' dust exposure is infrequent.
- CPDMs would be optional at surface coal mines and for non-production areas of underground coal mines (such as outby areas).
- The CPDM would electronically store all respirable dust sampling data collected during the shift; this data would be sent electronically to MSHA.

3. Provide for the use of a single, full-shift sample to determine compliance.

- Single, full-shift samples, collected by MSHA or the mine operator, would be used to determine noncompliance with respirable dust standards. Currently, multiple dust samples of different miners' exposures are averaged, with some samples indicating that miners are exposed to unhealthy dust levels far above the current 2.0 mg/m³ standard. For example, under the existing standard, five measurements of: 3.4, 2.7, 2.6, .7, and .5 would result in an average of 1.98, which meets the 2.0 mg/m³ standard, although 3 individual measurements exceed the standard.

4. Address extended work shifts.

- Require respirable dust sampling for the full shift a miner works, rather than a maximum of 8 hours. Under the existing rules, the dust sampling device is shut off after 8 hours even if the miner works much longer shifts in the dust.

5. Redefine normal production shifts.

- Change the existing definition of normal production shift to require sampling at a production rate that is more representative of normal mining operations. Currently, the production level required for a valid dust sample is 50 percent of the average production, which results in respirable dust during sampling at levels far lower than those miners are normally exposed to. The proposal would require sampling when production is at least the average production over the last 30 production shifts.

6. Expand medical surveillance.

- Add spirometry testing, occupational history, and symptom assessment to the chest x-ray examinations already required for underground coal miners.
- Extend medical surveillance to surface coal miners. (Extends transfer rights to surface coal miners, permitting the miner to elect to work in a lower dust atmosphere due to having the disease.)

Benefits and Costs of Proposed Rule

- Lowers miners' exposure to respirable coal mine dust, thus preventing Black Lung.
- Significant reductions in CWP, progressive massive fibrosis (the most severe stage of CWP), severe emphysema, and deaths from non-malignant respiratory disease.
- Estimated annualized benefits: \$99.1 – 196.8 million.
- Estimated annualized costs: \$40.4 – 44.5 million.



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Volume 7 Number 2

www.coalnews.net

February 2010

MSHA Announces End Black Lung Strategy

By Bill Reid
Managing Editor

In a shocking statistic, the National Institute for Occupational Safety and Health (NIOSH) says that over 10,000 miners have died from Black Lung over the last decade. The federal government has paid out over \$44 billion in compensation for miners totally disabled by Black Lung since 1970, according to the Labor Department's Office of Workers' Compensation. Based on recent data from NIOSH, cases of Black Lung are increasing among the nation's coal miners and even younger miners are showing evidence of advanced and debilitating lung disease from excessive dust exposure.

The U.S. Department of Labor's Mine Safety and Health Administration (MSHA) has announced a strategy to end new

cases of Black Lung among the nation's coal miners. Cases of coal worker's pneumoconiosis (CWP), or "Black Lung" as it is commonly called, is a collection of debilitating and potentially fatal diseases from respirable coal mine dust exposure. The MSHA initiative includes focused enforcement, targeted education and training, rulemaking and collaboration with stakeholders.

"While considerable progress has been made in reducing miners' exposure to respirable coal mine dust, miners continue to develop



Asst. Sec. Joe Main

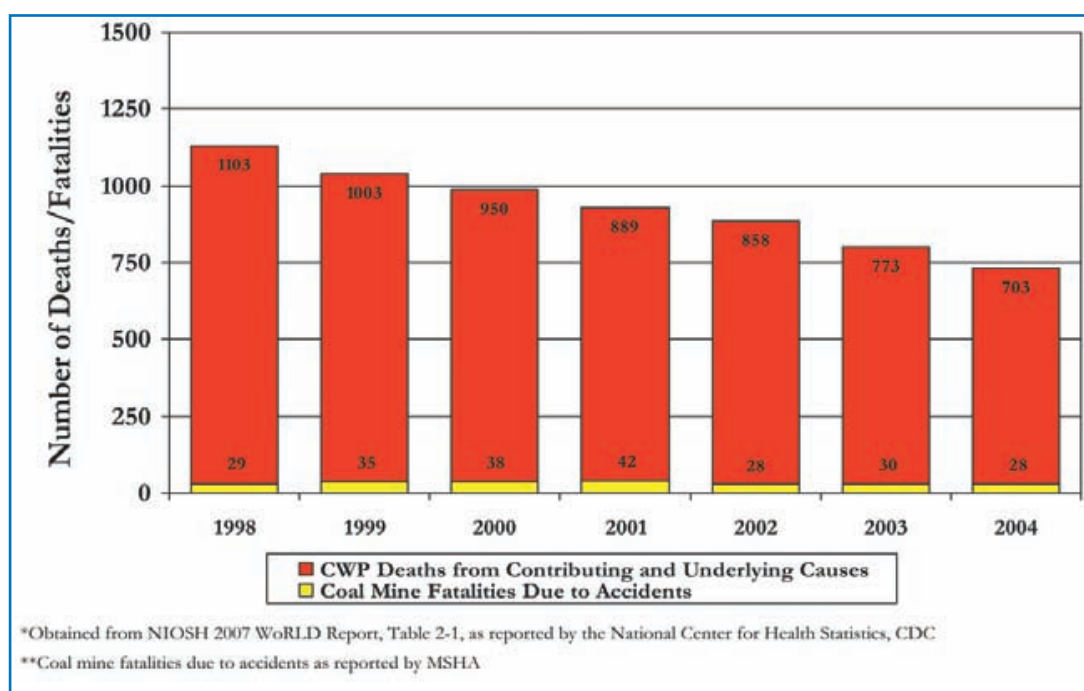
mation events in Beckley, West Virginia; Washington, Pennsylvania; Lebanon, Virginia; and Frankfurt, Kentucky. MSHA is disseminating new materials on a variety of dust related topics, including Black Lung, controlling respirable dust, on-shift examinations, and controlling exposure to coal mine dust containing quartz, and exposure at surface mine facilities. MSHA is also posting additional reports, educational materials, and resources on its "End Black Lung" webpage at www.msha.gov.

are scheduled for March 2010 in Birmingham, Alabama; April 2010 in Evansville, Indiana; and June 2010 in Grand Junction, Colorado.

In December of last year MSHA initiated its Dust Sweep, when every coal mine inspector dedicated a part of each inspection to health related activities and applied the lessons learned during the "Special Dust Emphasis Inspection Program" that took place last year. Based on these lessons learned, MSHA is reviewing the quality of dust controls stipulated in approved ventilation plans focusing on the primacy of engineering controls, and evaluating respirable dust practices during regular inspections. MSHA training specialists are monitoring the quality of training provided by industry personnel on the risks of Black Lung and silicosis to miners and the prevention methods.

Work on a final rule concerning the approval of coal mine dust personal monitors is included in MSHA's rule-making agenda. The rule would update approval requirements for existing monitors and establish criteria for the approval of a new type of technology, the "Continuous Personal Dust Monitor (CPDM)," which reports exposure to dust levels continuously during a work shift. MSHA is considering rulemaking on the recommendations in the NIOSH Criteria Document and the Secretary of Labor's Advisory Committee on the Elimination of Pneumoconiosis Among Coal Mine Workers. Some of the recommendations include lowering the level of exposure to coal mine dust, developing a separate exposure level for coal mine dust and silica, and using the CPDM to identify dust exposure, and, as appropriate, for compliance.

See much more, page 6.



Number of Deaths with CWP* vs. Coal Mine Fatalities** (1998-2004)

Black Lung and silicosis," said Joseph A. Main, Assistant Labor Secretary for Mine Safety and Health. "Having a comprehensive strategy is essential to tackle the occurrence of this highly preventable condition.

"I am pleased that the National Mining Association, the United Mine Workers of America, and the Bituminous Coal Operators Association have announced their

support for our goal to end Black Lung once and for all," added Main.

MSHA has held four public infor-

The outreach efforts include a series of regional one-day workshops jointly sponsored with NIOSH (see page 8). The workshops bring together groups of dust control experts to share their knowledge and experience on practical dust control tools and techniques to prevent disabling occupational lung disease. The first workshop was held at the Mine Safety and Health Safety Academy in December and others



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The Editor's View

The news that over 10,000 miners have died from Black Lung over the last decade, as reported by NIOSH, is a shocking statistic for the coal mining industry to absorb (*see cover story*). At a time when the industry is under so much attack from so many quarters, we hesitated in deciding on how to report this devastating information. But the circulation of **Coal News** is largely within the coal mining industry with limited circulation outside and MSHA has already released this statistic to the national media. Therefore, we took the decision to put it on the front page of this issue where we believe the information rightly belongs.

Pneumoconiosis is fibrotic disease of the lungs caused by inhalation of dust. Coal Worker's Pneumoconiosis (CWP) is from coal mine dust. The severe form is progressive massive fibrosis (PMF). Silicosis is from silica dust. Both can lead to disability and premature mortality and it is difficult to distinguish between them on the x-ray. Pneumoconiosis is not caused by smoking. The main variable in determining the development of simple pneumoconiosis is exposure to airborne dust and this effect is not modified appreciably by whether or not coal miners smoke.

MSHA has announced a multifaceted strategy to end new cases of Black Lung among the nation's coal miners. The MSHA initiative includes focused enforcement, targeted education and training, rulemaking, and collaboration with stakeholders. NIOSH has arranged a series of regional one-day workshops jointly sponsored with MSHA to bring together groups of dust control experts sharing their knowledge and experience on practical dust control tools and techniques to prevent this disabling occupational lung disease (*see page 8*).

Primary disease prevention is by coal mine dust control with the alternatives of ventilation and respirators. Secondary disease prevention is by early detection of the disease and reduction or elimination of further exposure. While significant progress has been made in reducing dust exposure in underground coal mines, severe cases of CWP and PMF continue to occur among coal miners. CWP hotspot areas include Southwestern Pennsylvania, West Virginia, and Northeast Tennessee. The increase since 1999 is a very serious matter for the coal mining industry. Seams that are being mined today taking floor or roof rock



to gain more height may not be able to be mined in the future, as NIOSH recommended exposure limits for coal mine dust and silica levels are on MSHA's rulemaking agenda. Mining machinery manufacturers need to focus carefully on designs of high productivity low seam equipment, which does not require extra rock to be mined. There will certainly be a big demand for this equipment.

Among the reasons for the increase in dust levels causing Black Lung are longer hours worked, greater production, inadequate compliance with coal mine dust standards, and increased exposure to silica dust. Average hours worked per year has increased from approximately 1,650 hours per miner to

2,250 hours per miner. The dust increase is partly due to an increase in silicosis from mining rock. There is more thin seam mining with rock due to depletion of coal reserves leading to excess silica exposure and silicosis. There may also be a lack of knowledge and resources in smaller mines.

In an effort to inform the industry, this issue of **Coal News** contains most of the material presented at the NIOSH Dust Reduction Workshop. Much of it is current known technology but was presented at the workshop and we hope is presented here in a concise manner. We urge our readers to study this information carefully and apply it in their operations. The problem of Black Lung is yet another challenge that the industry is facing. This is an industry used to challenges over the years and with a good record of overcoming them. We are confident this will be no exception. **Coal News** will always try to play its part.

Bill Reid
 billreid007@comcast.net

Mining Matters

DOE Publishes Manual for Public Outreach and Education for Carbon Storage Projects

The U.S. Department of Energy's Regional Carbon Sequestration Partnerships program has released a new manual to recommend best practices for public outreach and education for carbon dioxide (CO₂) storage projects. The recommendations are based on lessons learned by the Department's seven Regional Carbon Sequestration Partnerships during the first six years of the partnerships program.

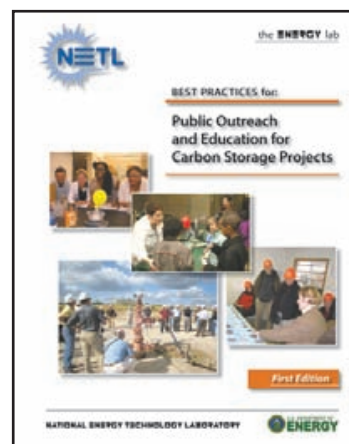
The new publication, titled *Best Practices for Public Outreach and Education for Carbon Storage Projects*, is intended to assist project developers in understanding and applying best outreach practices for siting and operating CO₂ storage projects. The manual provides practical, experience-based guidance on designing and conducting effective public outreach activities.

The Office of Fossil Energy launched the Regional Carbon Sequestration Partnerships program in 2003 to develop and validate carbon capture and storage technologies as part of a

national strategy to reduce greenhouse gas emissions and mitigate global climate change. Seven regional partnerships form the centerpiece of national efforts to develop the infrastructure and knowledge base needed to place carbon capture and storage technologies on the path to commercialization. Each of the partnerships works with local organizations and citizens who contribute expertise, experience, and perspectives that represent the concerns and desires of a given region.

The partnerships recognize that carbon storage projects take place in a social setting. The best practices highlighted in the new manual take into account the social context within which projects are deployed. They add a valuable perspective by addressing the critical social implications of implementing CO₂ storage projects across a variety of U.S. geologic and cultural settings.

To date, nearly two dozen CO₂ storage field verification tests nationwide are in progress or have been completed by the partnerships. These early proj-



ects have been highly visible, and their success will likely impact future carbon storage projects, such as the large-scale CO₂ storage projects the partnerships are now initiating in their respective regions.

The primary lesson learned from the partnerships' experience is that public outreach should be an integrated component of project management. Conducting effective public outreach will not necessarily ensure project success, but underestimating its importance can contribute to significant

delays, increased costs, and lack of community acceptance. Outreach is not simply an add-on activity—it is integral to implementation of the project.

In addition to the finding that public outreach should be an integral component of project management, the manual outlines an additional nine best practices. In combination, these ten practices represent a framework for designing an outreach program that is tailored to the specific characteristics of a planned project, the project developers, and the community in which the project is planned.

The seven regional partnerships include more than 350 organizations, spanning 43 states and four Canadian provinces. Collectively, the partnerships represent regions encompassing 97 percent of coal-fired CO₂ emissions, 97 percent of industrial CO₂ emissions, 96 percent of the total land mass, and essentially all the geologic sequestration sites in the United States potentially available for carbon storage.

Fontaine, Roslyn B - MSHA

From: Green, Edward [EGreen@crowell.com]
Sent: Monday, June 20, 2011 11:59 AM
To: Fontaine, Roslyn B - MSHA; zzMSHA-Standards - Comments to Fed Reg Group
Subject: RIN 1219--AB64; Lowering Miners' Exposure to Respirable Coal Mine Dust, Including Continuous Personal Dust Monitors; Proposed Rule
Attachments: 6-20-11 Ltr to R.Fontain_001.pdf; CV - J.Gamble_001.pdf; CV - R.Reger_001.pdf; CV - R.Glenn_001.pdf; Epub Suarthana oem 2010 063594 full.pdf; 15398220_1.pdf; Petition for Rulemaking_001.pdf; 15387085_1.pdf

Re: RIN 1219--AB64; Lowering Miners' Exposure to Respirable Coal Mine Dust, Including Personal Dust Monitors; Proposed Rule

Dear Ms. Fontaine:

Attached please find comments on the subject proposed rulemaking from Alliance Coal, Alpha Natural Resources, Arch Coal, BHP Billiton New Mexico Coal, Murray Energy Corporation, and Peabody Energy. We thank you for the opportunity to comment on the proposal.

Sincerely yours,

Edward M. Green.
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June 20, 2011

Ms. Roslyn B. Fontaine, Chief
Regulatory Development Division
Office of Standards, Regulations, and Variances
Mine Safety and Health Administration
U.S. Department of Labor
1100 Wilson Boulevard, Room 2350
Arlington, VA 22209-3939

Re: Comments of Alliance Coal, Alpha Natural Resources, Arch Coal, BHP Billiton New Mexico Coal, Murray Energy Corporation, and Peabody Energy on MSHA's Proposed Rule on Lowering Miners' Exposure to Respirable Coal Mine Dust, Including Continuous Personal Dust Monitors: RIN 1219-AB64

Dear Ms. Fontaine:

Introduction

Please find herein and attached the comments of Alliance Coal, Alpha Natural Resources, Arch Coal, BHP Billiton New Mexico Coal, Murray Energy Corporation, and Peabody Energy (hereinafter "the Companies") on MSHA's Proposed Rule on Lowering Miners' Exposure to Respirable Coal Mine Dust, Including Continuous Personal Dust Monitors (30 C.F.R. Parts 70, 71, 72, 75, and 90), published in the Federal Register for October 19, 2010. 75 Fed. Reg. 14,412 (hereinafter the "NPR"). In addition to these comments, the Companies hereby endorse the written comments of the National Mining Association ("NMA") on this Proposed Rule, as well as the testimony that the NMA panel presented at the February 15, 2011 MSHA public hearing on this NPR held in Arlington, VA. We incorporate those written comments and that testimony by reference as though fully set forth herein.¹

By way of introduction of the Companies, the independent operating subsidiaries of Alliance Coal, LLC ("Alliance") operate ten underground coal mining complexes throughout Kentucky, Illinois, Indiana, and West Virginia. These mines produce approximately 30 million

¹ All of the Companies are NMA members.

tons of coal annually and employ around 3,000 miners. Mines within the Alliance family strive to be recognized as industry leaders in all metrics of miner safety and health. To accomplish this objective, Alliance empowers its miners to champion the safety process. Achievement is rewarded and miners are encouraged to actively participate in Alliance's continuous efforts to prevent accidents in the work environment. Alliance is also a leader in the advancement and utilization of safety and health technology in its mines, providing its miners with safety and health equipment that goes beyond requirements of existing laws.

Alpha Natural Resources ("Alpha") is the third-largest coal producer in the United States, with production capacity, through its subsidiaries, of nearly 100 million tons of steam and metallurgical coal annually from more than 60 mines throughout Virginia, West Virginia, Kentucky, Pennsylvania, and Wyoming. Alpha's subsidiaries employ approximately 14,000 miners. At Alpha, safety comes first, and the Company believes that all injuries are preventable. Safety is integrated into every activity; and if a task cannot be completed safely, it will not be preformed. Every miner has responsibility, not only for his or her own safety, but also for the safety of miners around him or her. In this regard, each and every of our miners is trained to be a safety leader; taught not only to recognize hazardous situations and activities, but also empowered to take immediate corrective action. Because Alpha believes there is nothing more important than the safety and health of its miners, the Company continually invests in the latest equipment and technology, and utilizes the safest mining practices.

Arch Coal ("Arch"), based in St. Louis, Missouri, is the second largest coal company in the United States and the fourth largest in the world. In the United States, Arch's subsidiaries operate eleven coal mining complexes, in Wyoming, Utah, Colorado, West Virginia, Kentucky, and Virginia. Those subsidiaries sold almost 163 million tons of coal in 2010, 15% of the United States' coal supply, serving 195 power plants and other end users in 39 states. Arch's mines employ about 4,700 miners. Arch is an industry leader with regard to the safety and health of its miners, continuing to set the bar higher each year. In 2010, Arch set a new record for safety. This accomplishment is a testament to Arch's deep-rooted culture of safety and the strong participation of Arch's miners in that culture. In short, achieving success in the core value of safety is absolutely critical to Arch.

BHP Billiton ("BHP") is the world's largest diversified natural resources company, with more than 100 operations in approximately 25 countries throughout North and South America, Africa, Asia, and Australia. In the United States, BHP's New Mexico Coal Operations, located in the Four Corners area of Northwestern New Mexico, are comprised of two coal mines: (1) the Navajo Mine, a large surface coal mine located within the boundaries of the Navajo Reservation; and (2) the San Juan Mine, an underground longwall operation. About 65% of the salaried and hourly workforce of 1,000 employees of BHP New Mexico Coal is comprised of Native Americans. The two mines produce about 15 million tons of coal annually and are the sole suppliers of coal for the Four Corners and San Juan Generating Stations, which furnish electricity to New Mexico, Colorado, Utah, Arizona, and California. BHP's approach to miners' safety and health is grounded on compliance with the requirements of federal and state law and a systematic risk-based program comprised of detailed safety process components and a safety process matrix to address identified risks.

Murray Energy Corporation (“MEC”) is the largest privately-owned coal company in America, producing approximately 30 million tons of bituminous coal annually that provides affordable energy to households and businesses across the country. MEC’s subsidiaries operate eight underground and surface mining operations in Southern Illinois and Southern Ohio, Western Kentucky, and Utah, plus 40 subsidiary and support companies. Transporting coal via truck, rail, and waterways, MEC operates the second-largest fleet of longwall mining units in the country. With a support team of 2,800 hard-working, dedicated, and talented employees, MEC’s affordable high-quality coal is mined safely and efficiently, and is supplied to leading producers of electricity, both domestically and abroad. MEC’s committed management team and workforce are dedicated to maintaining a safe work environment,

Headquartered in St. Louis, Missouri, Peabody Energy (“Peabody”) is the world’s largest private-sector coal company. Peabody’s operations are geographically diverse within the United States and around the world, with locations on five continents. In the United States, Peabody operates 17 coal mining complexes, employing more than 8,200 miners, and is the leading coal producer in the Powder River Basin, the Southwest, the Illinois Basin, and Colorado, with U.S. coal production of 189 million tons, fueling 10% of U.S. electricity generation. Peabody’s employees are the company’s most highly-valued resource and their safety and health is a core value that is integrated into all areas of Peabody’s business.

Background

The Mine Safety and Health Administration (“MSHA”) published in the Federal Register on October 19, 2010, its proposed rule for “Lowering Miners’ Exposure to Respirable Coal Mine Dust, Including Continuous Personal Dust Monitors” (the “NPR”). 75 Fed. Reg. 64,412-64,506. The NPR would regulate miners’ exposure to respirable coal mine dust by revising the Agency’s existing standards. The NPR is excessively complex and overly detailed, but its major provisions would: (1) lower the existing exposure limits for respirable coal mine dust from 2.0 milligrams per cubic meter (mg/m^3) to 1.0 mg/m^3 ; (2) provide for the use of a single full-shift sample to determine compliance under the mine operator’s and MSHA’s inspector sampling programs; (3) require the use of a new technology, the Continuous Personal Dust Monitor (“CPDM”) for exposure monitoring; (4) expand requirements for medical surveillance; and (5) dramatically change ventilation plan processes and operating parameters in ventilation plans, including having the effect of prohibiting the use of supersection system of mining.

To start, all of the Companies believe the current rules of MSHA and the National Institute for Occupational Safety and Health (“NIOSH”), designed to prevent coal workers’ pneumoconiosis (“CWP”) are in need of reform. This belief is grounded in experience gained from the implementation of the Federal Mine Safety and Health Act of 1977, as amended, 30 U.S.C. §§ 801, et seq., (the “Mine Act”) and other health and safety laws. However, while the Companies support such reform, careful review and consideration of the NPR makes clear that the NPR is not the answer to problems that exist under current rules and regulations. The Companies, therefore, reject this NPR, and urge MSHA to withdraw the NPR entirely and start afresh. To the extent the record has remained open on the earlier proposals on this issue published during the Administrations of Presidents Bill Clinton and George W. Bush, the

Companies urge that those earlier proposed rulemakings should also be withdrawn. The time has come to turn a new page on this failed NPR and the two previous ones.

In short, for the reasons set forth below and in the attachments to this letter, the Companies believe MSHA has failed to satisfy its procedural obligations and substantive duties under the Mine Act, other laws, and executive branch policies. Moreover, those failings render this NPR incapable of being sustained. With particular regard to the Mine Act, the NPR is invalid as a direct result of MSHA's failures on at least three provisions: §§ 202(a), 202(f), and 101(a)(6)(A). To that end, if MSHA cannot carry out its most basic, and statutorily required, obligations, then the NPR cannot possibly stand.

- Mine Act § 202(a) requires both the Secretary of Labor and the Secretary of Health and Human Services to prescribe in the Federal Register the methods, locations, intervals, and manner for taking accurate samples of respirable dust in the mine atmosphere to which each miner in the active workings of underground coal mines is exposed. This NPR prescribes the methods, locations, intervals, and manner to take samples of respirable dust, but it is fatally defective because the Secretary of Health and Human Service's involvement in these prescriptions is nowhere to be found. Any rule that MSHA publishes in the Federal Register dealing with these issues *must be both proposed and promulgated jointly* by the Secretary of Labor (through her delegate MSHA, if she so chooses) and the Secretary of Health and Human Services (through her delegate NIOSH, if she so chooses). MSHA simply does not have the statutory authority, under Mine Act § 202(a) or elsewhere, to independently publish proposed or final rules dealing with the above-specified issues. Indeed, even if NIOSH approves of the provisions in the NPR, NIOSH's approval would not correct the fundamental problem of MSHA's failure to follow Mine Act § 202(a)'s specific statutory requirement of *joint* publication in the Federal Register throughout the rulemaking process, from initial proposal to final promulgation.

- Not only is the NPR fatally flawed procedurally—due to MSHA's failure to include the Secretary of Health and Human Services in the development and publication of the NPR—but MSHA also runs afoul of the substantive mandate of Mine Act §202(a) with regard to the accuracy of the samples proposed to be taken. Thus, as the testimony of the NMA witnesses at the MSHA February 15, 2011 public hearing effectively demonstrated, the new continuous personal dust monitor ("CPDM") needs additional development and improvement to provide accurate and consistent results. Under the NPR, however, the CPDM would, after a short period of time be the mandatory sampling device for respirable dust. The Companies also endorse the expert report of Michael Cooper, MPH, CIH, and Sheila McCarthy, MPH, CIH on "Laboratory Testing of Continuous Personal Dust Monitor (CPDM)," prepared for MEC, Alliance, Arch, the Illinois Coal Association, and the Indiana Coal Council. This report will be submitted to the Agency by MEC as part of its separately filed comments. In light of the above noted testimony and expert report, the Companies assert that, while in due course it is possible that the CPDM may be sufficiently perfected to take accurate samples that time has not yet arrived. Rather, for the time being, the CPDM should only be used as a non-compliance administrative control to allow mine operators to monitor the relative exposures of their miners to respirable dust, pending the successful completion of rigorous field trials of the CPDM, pursuant to a protocol developed

by all stakeholders. The CPDM should not be used in its present stage of development as a device to determine compliance with any respirable dust standard.

- On a similar note, Mine Act § 202(f) is extremely clear.

For the purpose of this title, the term "average concentration" means a determination which accurately represents the atmospheric conditions with regard to respirable dust to which each miner in the active workings of a mine is exposed (1) as measured, during the 18 month period following the date of enactment of this Act, over a number of continuous production shifts *to be determined by the Secretary and the Secretary of Health, Education, and Welfare*, and (2) *as measured thereafter, over a single shift only, unless the Secretary and the Secretary of Health, Education, and Welfare find*, in accordance with the provisions of section 101 of this Act, that such single shift measurement will not, after applying valid statistical techniques to such measurement, accurately represent such atmospheric conditions during such shift.

Thus, the term "average concentration" is defined as a determination accurately representing the mine atmospheric exposure to respirable dust for each miner in the mine's active workings. However, Mine Act §202(f) also provides that an "average concentration" may only be determined in two ways. First, during the eighteen months following the enactment of the Mine Act, "average concentration" was to be measured over a number of continuous production shifts, as determined by the Secretary of Labor and the Secretary of Health and Human Services. Following the eighteen month period, "average concentration" was required to be measured over a single shift, *unless* the Secretary of Labor and the Secretary of Health and Human Services found, in accordance with Mine Act § 101, that such single shift measurement will not, "after applying valid statistical techniques, accurately represent such atmospheric conditions during such shift." The preamble acknowledges that the two Secretaries found in 1972 (and so published their finding in the Federal Register) that single shift measurement of respirable dust would not, after applying valid statistical techniques, accurately represent such atmospheric conditions during such shift.² That joint Secretarial finding remains in effect today. MSHA proposes in this NPR to "rescind the 1972 joint notice of finding."³ However, MSHA lacks any authority to rescind the 1972 joint finding unilaterally. Knowing the limitations of its authority, MSHA falls back on some regulatory legerdemain, claiming that a July 2000 joint MSHA-NIOSH proposal to rescind the 1972 finding is still subject to public comment.⁴ The use of an eleven-year-old proposed joint rescission of the 1972 finding cannot possibly be used as a fundamental basis for the validity of this NPR, particularly when the NPR is such a radical departure from the earlier proposals of the Administrations of Presidents Bill Clinton and George

² See 75 Fed. Reg. 64,413 referencing a joint finding by the Secretaries of the Interior and Health, Education, and Welfare under section 202(f) of the Federal Coal Mine Safety and Health Act of 1969, published on February 23, 1972, at 37 Fed. Reg. 3,833.

³ *Id.* at 64,449.

⁴ *Id.* at 64,415.

W. Bush. Simply put,, the 1972 joint Secretarial finding cannot be rescinded without a *proposed rescission published by both MSHA and NIOSH for comment, followed by a joint final rescission*. In this NPR, no such role for NIOSH or the Secretary of Health and Human Services can be found, and the NPR is thus fatally flawed on that count too.⁵

• Finally, as the “Critical Review of the Scientific Basis for MSHA’s Proposal for Lowering the Coal Mine Dust Standard” (“Critical Review”), described below so powerfully proves, MSHA has not successfully fulfilled its burden, under Mine Act § 101(a)(6)(A), to demonstrate the need for revisions to the respirable dust standards based on the best available evidence. For that reason too, this NPR is fatally flawed. Among the reasons why the Companies reject this NPR, and central to our view that MSHA has not demonstrated that the NPR is based on the best available evidence, is that we vehemently disagree with MSHA that the prevalence of CWP is increasing in the Nation’s coal miner population. To test the validity of what our first hand, yet anecdotal, information seemed to support, the Companies commissioned preparation of the Critical Review, written by three internationally recognized experts in the field of CWP and other occupationally related lung diseases. These three experts (all of whom have long experience as senior NIOSH officials in the early formative years of that Agency’s CWP program) are John F. Gamble, PhD, Robert B. Reger, PhD, and Robert E. Glenn, MPH. A copy of the Critical Review is attached to this letter, as well as the curriculum vitae of these three experts.

The Critical Review is very detailed and comprehensive, and we urge its careful and thorough review by the Agency. Because of its length, and in order to emphasize the fundamental flaws in the NPR, the Companies have extracted below the Executive Summary, the Introduction, and the Overall Summary and Conclusions of the Critical Review.

In addition to this Critical Review, the Companies have learned that a very important new study has been published online by NIOSH scientists on May 19, 2011, entitled “Coal Workers’ Pneumoconiosis in the United States: Regional Differences 40 Years After Implementation of the 1969 Coal Mine Health and Safety Act.”⁶ This new study is quite consistent with and supportive of the of the Critical Review; and the Companies discuss it further below, following our discussion of the Critical Review.

⁵ The Companies note that on April 28, 2011, NIOSH actually filed “comments” on the NPR, sending a letter to the MSHA docket enclosing its current Intelligence Bulletin 64, “Coal Mine Dust Exposures and Associated Health Outcomes, A Review of Information Published Since 1995.” See, letter from Paul A. Schulte, PhD, Director of NIOSH’s education and Information Division (MSHA Docket No. AB64-COMM-41). It would appear that NIOSH itself has forgotten its statutory role under Mine Act §§202(a) and (f).

⁶ Suarathana E., Laney AS, Storey E., et al., *Occup. Environ. Med.*, published online, May 19, 2011.

Chairman Rehberg Statement on Release of FY12 Labor, Health and Human Services, Education Appropriations Bill

09/29/11

WASHINGTON, D.C. – Congressman **Denny Rehberg**, Chairman of the House Appropriations Subcommittee on Labor, Health and Human Services and Education today released the following statement after introducing a funding bill for fiscal year 2012. The bill has been posted online for public consideration and input. This legislation contains \$153.4 billion in discretionary funding – a \$4 billion, or 2.5 percent, reduction compared with last year's spending level and \$27.5 billion, or 15.2 percent, less than the President's budget request.

"This common-sense plan is built on the simple idea that the economy isn't just a bunch of numbers. The economy is people. It's what impacts them, their hopes and dreams, their families and their lives. This bill is about investing in people and helping create the jobs they need to take care of their loved ones. We do that by funding things like education to empower innovation and restore American ingenuity. But we also invest in people by freeing them from stifling government regulatory burdens that replace productivity with paperwork. By spending tax dollars strategically, we can balance critical funding for programs that actually help people and families with the real need to rein in government over-spending."

The proposed legislation supports job creation and economic recovery. It strategically achieves this balance both by funding critical job-supporting priorities like education and biomedical research while fostering a pro-job environment by reducing and eliminating harmful and unnecessary federal regulations. Included in these provisions are measures to prevent the implementation of the President's health care law, which has been found unconstitutional in multiple courts.

Among the provisions of the legislation are:

- Saves taxpayers \$4 billion compared with last year, and \$27.5 billion compared with the President's request for this year.
- Eliminates 79 wasteful programs for a savings of \$6.1 billion
- Rescinds more than \$8.6 billion of mandated health reform funds intended for implementation of a law that may very well be struck down as unconstitutional.
- Prevents the Department of Health and Human Services from moving forward with health reform implementation until the Supreme Court rules.
- Provides increased education funding, including Title I, IDEA, Impact Aid, and Indian Education programs.
- Protects the maximum Pell award at \$5,500.
- Provides increased funding for biomedical research at the National Institutes of Health (NIH).
- Provides increased funding to the Social Security Administration.

- Denies funding for onerous and unnecessary Department of Labor and National Labor Relations Board regulations.

Chairman Rehberg posted the legislation online to solicit additional public comment, and he also noted that the bill is the product of an open process that engaged folks from Montana and around the country.

“This bill is the result of the cumulative effort of members of the Subcommittee, and Americans I heard from at 81 listening sessions and in countless meetings in Washington and in Montana. Now, it’s posted online for the only test that matters, and that's the approval of the American people.”

The bill can be found online at:

http://appropriations.house.gov/UploadedFiles/FY_2012_Final_LHHSE.pdf

— Calendar No.

112TH CONGRESS
1ST SESSION

H. R. _____

Making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2012, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. REHBERG introduced the following bill; which was referred to the

A BILL

Making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2012, and for other purposes.

1 Requirements—Musculoskeletal Disorders (MSD) Column
2 regulation (Regulatory Identification Number 1218-
3 AC45) being developed by the Occupational Safety and
4 Health Administration of the Department of Labor.

5 SEC. 120. None of the funds made available by this
6 Act may be used to continue the development of or to pro-
7 mulgate, administer, enforce, or otherwise implement the
8 Injury and Illness Prevention Program regulation (Regu-
9 latory Identification Number 1218-AC48) being developed
10 by the Occupational Safety and Health Administration of
11 the Department of Labor.

12 SEC. 121. None of the funds made available by this
13 Act may be used to enforce the cancellation of compliance
14 directive STD 03-00-001 (Plain Language Revision of
15 OSHA Instruction STD 3-1, Interim Fall Protection Com-
16 pliance Guidance for Residential Construction) as it re-
17 lates to residential reroofing and roof-repair activities.

18 SEC. 122. None of the funds made available by this
19 Act may be used to continue the development of or to pro-
20 mulgate, administer, enforce, or otherwise implement the
21 Lowering Miners' Exposure to Coal Mine Dust, Including
22 Continuous Personal Dust Monitors regulation (Regu-
23 latory Identification Number 1219-AB64) being developed
24 by the Mine Safety and Health Administration of the De-
25 partment of Labor.

Coalition Letter on Financial Assurance

Release Date:

Wednesday, July 27, 2011

The Honorable John Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

The Honorable Nancy Pelosi
Minority Leader
U.S. House of Representatives
Washington, DC 20515

The undersigned organizations urge you to oppose any amendment to the House FY 2012 Interior, Environment, and Related Agencies Appropriations Bill that would strike a critical provision that prohibits the U.S. Environmental Protection Agency (EPA) from developing, proposing or implementing new financial assurance requirements under Section 108(b) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). This provision is necessary to protect the global competitiveness of industries that power the U.S. economy, deliver affordable energy, manufacture and supply critical products, and provide high-paying jobs.

EPA is poised to impose these requirements despite its failure to accurately assess whether the facilities within the targeted industries actually pose a risk of becoming future Superfund sites that would require expenditure of public funds for cleanup costs. Instead, EPA's analyses rely on mischaracterization of data regarding legacy Superfund sites, as well as vague, anecdotal and irrelevant information that exaggerates the risks posed by currently operating facilities in our industries. Additionally, EPA completely disregards that our industries operate under a comprehensive framework of state and federal environmental laws and regulations designed to prevent releases of hazardous substances or control them at levels that are protective of the environment and human health.

The vast majority, and in some cases all of the facilities, in our industry sectors are already subject to robust financial assurance requirements under federal and/or state laws. In targeting our industries, however, EPA failed to examine these laws and their role in protecting the American taxpayer from funding future Superfund sites. In these cases, CERCLA 108(b) financial assurance requirements would only duplicate other successful federal financial assurance programs, as well as potentially preempt mature state financial assurance programs.

The Western Governors Association and several western states, including Alaska, Arizona, Colorado, Nevada and New Mexico have already lodged serious concerns regarding the preemption of their programs covering reclamation of hardrock mining operations. Similarly, the Association of State and Territorial Solid Waste Management Officials, which represents state

and territory agencies that implement financial assurance requirements under their solid and hazardous waste regulatory programs, CERCLA remediation projects, and underground storage tank programs, has voiced concerns with preemption and duplication.

Finally, and contrary to CERCLA's requirements, EPA has failed to thoroughly analyze the capacity of the financial and credit markets to provide the necessary instruments for meeting any new requirements. It is unlikely that the market can supply the financial assurance that EPA would require under the worst case scenarios the agency is contemplating. As such, companies will be forced to use cash to meet financial assurance obligations, which can have significant anti-competitive effects including putting companies with less liquid cash positions out of business and posing an insurmountable market barrier for new firms. Simply put, these requirements remove capital from the economy.

EPA itself has argued in court that it does not have a mandatory duty to pursue these requirements under CERCLA 108(b). EPA has not shown that under today's modern environmental regulations our industries present a risk of becoming future Superfund sites. Furthermore, risks our industries may pose are adequately addressed through the existing framework of federal and state environmental laws and regulations and associated financial assurance requirements. We urge you to oppose any amendment on the House floor during consideration of the House FY 2012 Interior, Environment and Related Agencies Appropriations Bill that would allow EPA to move forward with an unnecessary and unwise rulemaking that would dramatically impact the competitiveness of critical U.S. industries.

Sincerely,

American Coke & Coal Chemicals Institute
American Iron and Steel Institute
American Petroleum Institute
National Association of Manufacturers
National Mining Association
Society of Chemical Manufacturers and Affiliates
The Fertilizer Institute
United States Chamber of Commerce

FULL COMMITTEE VOTES

Pursuant to the provisions of clause 3(b) of rule XIII of the House of Representatives, the results of each roll call vote on an amendment or on the motion to report, together with the names of those voting for and those voting against, are printed below:

Date: July 12, 2011

Measure: Interior, Environment, and Related Agencies Appropriations Bill, FY 2012

Motion by: Mr. Rehberg

Description of Motion: To prohibit the Environmental Protection Agency from using funds to develop, propose, finalize, implement, enforce or administer any regulation that would establish new financial responsibility requirements under the Comprehensive Environmental Response, Compensation, and Liability Act.

Results: Adopted 28 yeas to 17 nays.

ROLL CALL NO. 11

Members Voting Yea

Mr. Aderholt
Mr. Alexander
Mr. Austria
Mr. Bonner
Mr. Calvert
Mr. Carter
Mr. Cole
Mr. Crenshaw
Mr. Culberson
Mr. Dent
Mrs. Emerson
Mr. Flake
Mr. Frelinghuysen
Ms. Granger
Mr. Graves
Mr. Kingston
Mr. Latham
Mr. LaTourette
Mr. Lewis
Mrs. Lummis
Mr. Nunnelee
Mr. Rehberg
Mr. Rogers
Mr. Simpson
Mr. Wolf
Mr. Womack
Mr. Yoder
Mr. Young

Members Voting Nay

Ms. DeLauro
Mr. Dicks
Mr. Farr
Mr. Fattah
Mr. Honda
Mr. Jackson
Ms. Lee
Mrs. Lowey
Ms. McCollum
Mr. Moran
Mr. Pastor
Mr. Price
Mr. Rothman
Ms. Roybal-Allard
Mr. Schiff
Mr. Serrano
Mr. Visclosky

as increasing the number of annual “construction completes” and more importantly “sites made ready for reuse”. The conferees direct the Inspector General to report to the Committees on Appropriations within 90 days of enactment of this Act on current agency efforts to strengthen Superfund contracting controls to prevent future waste, fraud and abuse.

Financial Assurance.— In lieu of the directives contained in H. Rept. 112-151 regarding financial assurance requirements, the conferees direct the Administrator to collect and analyze information from the commercial insurance and financial industries regarding the use and availability of necessary instruments (including surety bonds, letters of credit, and insurance) for meeting any new financial responsibility requirements and to make that analysis available to the House and Senate Committees on Appropriations and to the general public on the Agency website 90 days prior to proposing any rule pursuant to section 108(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9608(b)).

Special Accounts.—The conferees direct EPA to follow the language in House report 112-151 with respect to managing the unobligated balances in the Superfund special accounts.

MC

LEAKING UNDERGROUND STORAGE TANK TRUST FUND PROGRAM

The bill provides \$104,309,000 for the Leaking Underground Storage Tank Trust Fund Program.

INLAND OIL SPILL PROGRAMS

The bill provides \$18,274,000 for Inland Oil Spill Programs.

STATE AND TRIBAL ASSISTANCE GRANTS

The bill provides \$3,618,727,000 for the State and Tribal Assistance Grants (STAG) program and includes the following specific funding levels and direction:

Infrastructure Assistance.—The bill provides \$2,528,169,000 for infrastructure assistance, including \$1,468,806,000 for the Clean Water State Revolving Fund and \$919,363,000 for the Drinking Water State Revolving Fund. The amount provided for the Clean Water State Revolving Fund program will fund approximately 473 new wastewater projects nationwide and more than 81,000 jobs when combined with state matching funds and leverage capabilities, according to Agency estimates. Amounts



Coal Mine Safety and Health
District 9

NOV 19 2010

Mr. Robert C. Hall
Mine Manager
Bull Mountains Mine No. 1
Signal Peak Energy LLC
100 Portal Drive
Roundup, MT 59072

Dear Mr. Hall:

In accordance with Section 104(e) of the Federal Mine Safety and Health Act of 1977 (Mine Act) and 30 CFR Part 104, the Mine Safety and Health Administration (MSHA) has conducted a pattern of violation (POV) screening of compliance records for the 12 months ending August 31, 2010 and of accident and employment records for the 12 months ending June 30, 2010, for the Bull Mountains Mine No. 1, MSHA ID No. 24-01950. A POV screening is used to determine if Section 104(e) is applicable to a particular mine. If implemented, Section 104(e) requires all subsequent violations designated as Significant and Substantial (S&S) be issued as closure orders with all persons withdrawn from the affected area except those necessary to correct the violation. An operator can be removed from Section 104(e) sanctions only after an inspection of the entire mine results in no significant and substantial violations.

This letter is your notification that a potential pattern of violations exists at the Bull Mountains Mine No. 1. This notification is based upon the initial screening and pattern criteria review, which were conducted in accordance with 30 C.F.R. §§ 104.2 and 104.3. A Pattern of Violation Review report is enclosed as Attachment A. This report details the methodology used for the initial screening and pattern criteria review and summarizes your mine's performance relative to the criteria.

Prior to MSHA implementing Section 104(e) sanctions at the Bull Mountains Mine No. 1, you are provided the opportunity, not to exceed 20 days from the date of this notification, to take any or all of the following steps:

Review all documents upon which the pattern of violations evaluation is based and provide additional mitigating information.

Submit a written request for a conference with me (I shall hold any conference within 10 days of a request).

Provide a written plan to me indicating that you will institute a corrective action program to avoid repeated significant and substantial violations at the operation. Guidance on what constitutes an appropriate corrective action program is contained in the enclosed document entitled *Pattern of Violations Procedures Summary*.

Please note that 30 C.F.R. § 104.4(d) requires that you post a copy of this letter on the mine bulletin board until you are notified of MSHA's final determination with respect to your status pursuant to Section 104(e) of the Mine Act.

Bull Mountains Mine No. 1 was issued 3.01 S&S violations per 100 inspection hours during the 12-month review period. If the Bull Mountains Mine No. 1 implements an appropriate corrective action program, the mine must maintain an S&S rate of 4.88 or lower during the evaluation period (i.e., within the top 50th percentile of similar type mines for the 12-month review period). If a corrective action program is not implemented, the mine must maintain an S&S rate of 3.68 or lower during the evaluation period (i.e., within the top 35th percentile of similar type mines). Therefore, I encourage you to implement a corrective action program as soon as practicable. An explanation of these rates, as well as guidelines for an appropriate corrective action plan, are contained in the enclosed document entitled *Pattern of Violations Procedures Summary*. Absent mitigating circumstances, the Bull Mountains Mine No. 1 must meet one of these goals to avoid being issued a pattern of violations notice during this POV review cycle.¹

Whether or not you implement a corrective action program, MSHA will conduct a complete inspection of the Bull Mountains Mine No. 1. This inspection may start as soon as December 9, 2010. I will analyze the results of this complete inspection and other on-site enforcement activities conducted during the corrective action period to evaluate whether the Bull Mountains Mine No. 1 has effectively controlled the occurrence of S&S violations during the review period.

If you implement a corrective action program which does not achieve a rate of S&S violations at or below the applicable levels set forth in the paragraph above, pursuant to 30 C.F.R. section 104.5(b), I will submit an evaluation report to the

¹ However, all mines will be considered for potential pattern of violation notices during the next and subsequent review cycles. MSHA is required to conduct evaluations at least annually but can conduct the evaluations more frequently.

Administrator for Coal Mine Safety and Health within 120 days from the date of this notification. If you choose not to implement a program to reduce S&S violations, I will submit the report of the evaluation to the Administrator within 60 days from the date of this notification.

In both cases, a copy of the report of evaluation will be provided to you and the representative of the miners 10 days before the report is sent to the Administrator. Both you and the miners' representative will have 10 days from the receipt of the report to submit written comments to the Administrator.

Within 30 days of receipt of my report to the Administrator, the Administrator will issue a decision as to whether the Bull Mountains Mine No. 1 is to be issued a Notice of a Pattern of Violations. A copy of the decision will be provided to you and the representative of the miners.

If the Administrator decides to issue a Notice of Pattern of Violations, I will issue the Notice of Pattern of Violations to you. A copy of the notice will also be provided to the representative of miners.

Following issuance of a Notice of Pattern of Violations, I will initiate appropriate inspection activities to ensure that the Bull Mountains Mine No. 1 is inspected in its entirety during the following 90-day time frame and each succeeding inspection cycle until the Pattern of Violation order is terminated.

If upon any inspection after the issuance of the Pattern of Violations Notice an authorized representative finds any violation of a mandatory health or safety standard which could significantly and substantially contribute to the cause and effect of a safety or health hazard, the inspector shall issue an order requiring the withdrawal of all persons in the area affected by the violation except those persons listed in 104(c) of the Mine Act. All persons, except as listed in 104(c) of the Mine Act, shall also be prohibited from entering that area until the inspector determines that such violation has been abated.

Termination of a Pattern of Violations notice shall occur when an inspection of the entire mine results in no significant and substantial violations or no withdrawal order is issued by MSHA in accordance with section 104(e)(1) of the Act within 90 days of the issuance of the pattern letter.

You may request an inspection of the entire mine or portions of the mine at any time. No advance notice of the inspection shall be provided and MSHA will determine the scope of each inspection. Partial inspections that cumulatively cover the entire operation within the 90-day period will constitute an inspection

of the entire operation for the purposes of termination of a Pattern of Violations Notice.

Please contact me at (303) 231-5458 if you have any questions regarding this matter. Additional mitigating information, requests for a conference and/or a written plan to institute a corrective action program should be sent to me at: MSHA, District 9. P.O. Box 25367, Denver Federal Center, Denver, CO 80225.

Sincerely,



Allyn C. Davis
District Manager

Enclosures

Screening Criteria Results for Pattern of Violations

The following screening criteria are used to perform the initial screening required under 30 CFR §104.2 and 30 CFR §104.3. If the mine meets either Initial Criteria 1 or Initial Criteria 2, the mine will be considered for a PPOV if the Final Order Criteria is also met.

Overall Results <div style="font-size: 1.5em; color: red; font-weight: bold; text-align: center;">PPOV</div>
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Does the mine meet Initial Criteria 1 (30 CFR §104.2) ? - **YES**
 Does the mine meet Initial Criteria 2 (30 CFR §104.2) ? - **NO**
 Does the mine meet Final Order Criteria (30 CFR §104.3) ? - **YES**

Query Run Date

Oct-18-2010

DISTRICT 09 Gillette WY Field Office

Mine ID: 24-01950

Mine Status: Active (on screening date)

Mine Name: Bull Mountains Mine No 1

Mine Type: Underground Coal

Controller: Global Mining Group LLC; Musselshel Resources LLC

Operator: Signal Peak Energy LLC

12 Month Date Range Used	
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Start Date:	Sep-01-2009
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End Date:	Aug-31-2010
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Criteria	Criteria Description		Does the Mine Meet the Criteria?
Initial Criteria 1	1 At least 50 citations/orders for significant and substantial (S&S) violations issued in the most recent 12 months.	59 YES	YES This mine meets all four Initial Criteria 1
	A rate of eight or more S&S citations/orders issued per 100 inspection hours during the most recent 12 months, or <i>59 S&S C/O's were issued during 1957 inspection hours.</i>	3.01 NO	
	2 The degree of negligence for at least 25 percent of the S&S C/O's issued during the most recent 12 months is "high" or "reckless disregard." <i>16 of the 59 S&S C/O's issued were either high or reckless disregard.</i>	27.1% YES	
	3 At least 0.5 elevated citations and orders [under section 104(b); 104(d); 104(g); or 107(a) of the Mine Act] issued per 100 inspection hours during the most recent 12 months. <i>15 elevated C/O's were issued during 1957 inspection hours.</i>	0.77 YES	
	4 The Injury Severity Measure (SM) for the mine is greater than the overall Industry SM for all mines in the same mine type and classification over the most recent 12 months. <i>The mines SM of 2744.4 is more than the industry SM of 541.4.</i>	2744.4 YES	
Initial Criteria 2	1 At least 100 S&S citations/orders issued in the most recent 12 months. <i>59 S&S C/O's were issued.</i>	59 NO	NO This mine does not meet both Initial Criteria 2
	2 At least 40 elevated citations and orders [under section 104(b); 104(d); 104(g); or 107(a) of the Mine Act] issued during the most recent 12 months. <i>15 elevated C/O's were issued.</i>	15 NO	
Final Order Criteria	1 At least 5 S&S citations/orders of the same standard that became final orders of the commission during the most recent 12 months, or <i>7 C/O's of standard 75.400 became final orders.</i>	7 YES	YES This mine meets at least one of the Final Order Criteria
	2 At least 2 S&S unwarrantable failure citations/orders [104(d)] became final orders of the commission during the most recent 12 months. <i>3 unwarrantable failure C/O's became final orders.</i>	3 YES	

Note: This mine has not been identified for a PPOV review before.

11/09/2010

Dear Assistant Secretary Main:

I'm writing in regards to recent actions taken by the Mine Safety and Health Administration (MSHA).

Recently in meetings with Montana's miners and mine operators, I've been repeatedly alerted to the misguided and burdensome rules that are crafted and enforced by MSHA under this administration. Many are questioning whether MSHA's mission has changed from an oversight role to that of a politically driven environmental regulator.

MSHA's newly adopted role now seems to focus on permanently closing the doors of the mining industry and the good paying jobs that come with it. MSHA is seemingly ignoring its primary role of miner safety, and is instead pursuing a newly adopted role of environmental extremism and revenue-raising. For instance, miners at the Troy Mine near Libby, Montana, have expressed outrage towards the following list of unwarranted citations recently levied against their mine:

- Citation #6450734 – This violation was written because the toe spacing between ladder rungs was 2¾ inches instead of 3 inches. The ladder had been there for years, and was never previously cited by MSHA in other inspections.
- Citation #6457290 – When the Safety Engineer filled out a form describing an incident, he wrote Troy Mine, Genesis Inc., instead of Genesis Inc., Troy Mine. This resulted in a safety violation citation.
- Citation #6457288 – This citation was written because the mine failed to contact MSHA within 15 minutes of a storage facility catching fire. The facility, which was not owned by the mine or its parent company and was located 30 miles from the mine, housed a railcar full of ore that originated from the mine and was en route to be refined. Therefore, MSHA considered it to be mine property and subject to its requirements for contacting the agency after an accident.
- Citation #6457292 – MSHA wrote a citation because the mine failed to launch an investigation to determine the cause of the aforementioned fire. The mine was cited despite the fire marshal closing the facility, which was not owned by the mine, because several agencies were carrying out their own investigations.
- Citation #6457819 – A 4x8-foot room near an entryway contained a 100-watt light bulb that was burnt out. This room is not used for any purpose.

I'm concerned that these instances are only the tip of the iceberg. As such, I request that you provide records of any action taken by MSHA that has resulted in an inclement finding against a mine in Montana. Please make these records, including the inspectors' notes for each citation, available for the two-year period preceding this letter's date.

Montanans, including myself, understand the importance of protecting our environment and the safety of our miners. In doing so, however, MSHA must take a balanced approach that also weighs the importance of jobs and the long-term impact on our communities. Miners want a

working relationship with MSHA, but unfortunately, MSHA's role has changed from compliance to enforcement. As frivolous violations add up, so does the likelihood that miners' jobs will be lost due to MSHA's overzealous enforcement.

Thank you for adhering to this request, and please don't hesitate to contact my office if I can be of further assistance.

Sincerely,

U.S. Department of Labor

Mine Safety and Health Administration
1100 Wilson Boulevard
Arlington, Virginia 22209-3939



DEC 22 2010

The Honorable Denny Rehberg
U.S. House of Representatives
Washington, DC, 20515

Dear Congressman Rehberg:

I am responding to your letter of November 9, 2010, concerning the mission of the Mine Safety and Health Administration (MSHA) and the Agency's role in ensuring the safety and health of the nation's miners.

MSHA's primary goal is to promote health and safety and reduce injuries, illnesses and deaths in our nation's mines. The Agency is statutorily obligated by the Federal Mine Safety and Health Act of 1977 (Mine Act) to inspect all mines and enforce federal safety and health standards. The Mine Act also requires MSHA inspectors to issue citations when they observe violations of mandatory standards.

Upon receipt of your letter, I directed Neal Merrifield, Administrator for Metal and Nonmetal Mine Safety and Health, to investigate your concerns and report back to me with his findings. I have enclosed a copy of the report from the Administrator for your review. As discussed in the report, it has been determined that our inspectors applied appropriate enforcement actions that are consistent with MSHA's policies, procedures, and its mission.

The detailed citation information that you requested has been collected and is included on the enclosed disc. Should you need additional information or have further questions please contact Charmaine Manansala, Senior Legislative Officer, at 202-693-4600 or via e-mail at manansala.charmaine@dol.gov.

Sincerely,

A handwritten signature in black ink that reads "Joseph A. Main". The signature is written in a cursive style with a large initial "J".

Joseph A. Main
Assistant Secretary of Labor for
Mine Safety and Health

Enclosure

You can now file your MSHA forms online at www.MSHA.gov. It's easy, it's fast, and it saves you money!



DEC 10 2010

MEMORANDUM FOR JOSEPH A. MAIN

Assistant Secretary of Labor for
Mine Safety and Health

FROM:

Neal H. Merrifield
NEAL H. MERRIFIELD
Administrator for Metal and Nonmetal
Mine Safety and Health

SUBJECT:

Representative Rehberg of Montana concerns over MSHA
Actions

In a letter dated November 11, 2010, Representative Denny Rehberg of Montana asked the Mine Safety and Health Administration (MSHA) to respond to his concerns about MSHA enforcement activities in Montana.

Representative Rehberg notes in his letter that MSHA has strayed from its primary mission of protecting miners and adopted a new role of "environmental extremism and revenue-raising." MSHA is not an environmental regulatory agency. Our inspectors are only authorized to enforce federal standards and issue citations as set forth by Congress in the Mine Act and the New Emergency Response (MINER) Act of 2006.

MSHA recognizes the vital role that the mining community plays in the national economy and it is not our intent to use our enforcement authority to cause any mine undue financial hardship or compromise a miners' employment. However, the Mine Act requires MSHA to inspect each underground mine at least four times per year and every surface mine at least twice a year. The Mine Act also requires MSHA inspectors to issue citations whenever they find a violation of the Mine Act or MSHA standards.

Following mining disasters in 2006, Congress enacted new legislation to improve mine safety and health. That legislation, the Mine Improvement and New Emergency Response (MINER) Act of 2006, established new minimum penalties of \$2,000 for any citation or order issued under section 104(d)(1) and \$4,000 for orders issued under 104(d)(2) of the Mine Act. It established penalties for flagrant violations -- those involving "a reckless or repeated failure to make reasonable efforts to eliminate a known violation of a mandatory health or safety standard that substantially and proximately caused, or reasonably could have been expected to cause, death or serious bodily injury" -- of up to \$220,000. The MINER Act also established penalties between \$5,000 and \$60,000 for a mine operator who fails to timely notify MSHA of a death or an injury or entrapment with a reasonable potential for causing death.

MSHA also increased penalties for violations of other health and safety standards. Following the tragedies at Sago, Darby and Alma, MSHA received criticism that its penalty assessments were insufficient as a deterrent to prevent safety and health violations. In March of 2007, MSHA completed rulemaking to revise its penalty assessment schedule. These regulatory changes increased penalty amounts for most violations. Prior to these revisions, operators received a \$60 fine for any violation that was not a significant and substantial safety or health hazard as long as they abated the hazard and did not have a history of repeated violations. With the 2007 revisions, the median penalty on a single citation at Metal and Nonmetal mines has increased from \$60 to \$100. Substantially higher penalties are assessed for repeat violators that continually allow hazardous conditions to exist.

In assessing a penalty, MSHA applies a formula contained in 30 CFR Part 100. The formula is intended to reflect the six statutory criteria specified in the Mine Act: (1) history of previous violations; (2) size of the operator's business; (3) negligence of the operator; (4) gravity of the violation; (5) good faith shown by the operator in trying to promptly correct the violation; and (6) the effect of the penalty on the operator's ability to continue in business. In certain cases MSHA applies a special assessment instead of the assessment formula if warranted by the nature and seriousness of the violation.

The Mine Act and MSHA's regulations provide mine operators with options if they disagree with citations or orders issued by an MSHA inspector. Violations can be discussed with the inspector during the inspection or at the closeout conference, and a subsequent conference may be requested with the MSHA District Manager. If an issue is not resolved, the citations or orders may be contested in an administrative proceeding before the Federal Mine Safety and Health Review Commission. Citations and orders contain specific instructions on how to contest a violation.

In the civil penalty assessment process, MSHA applies a formula contained in 30 CFR Part 100. The formula reflects the six statutory criteria specified in the Mine Act: (1) history of previous violations; (2) size of the operator's business; (3) negligence of the operator; (4) gravity of the violation; (5) good faith shown by the operator in trying to promptly correct the violation; and (6) the effect of the penalty on the operator's ability to continue in business. The Mine Act does not authorize MSHA to waive civil penalties.

Once a penalty is assessed, all mine operators have the right to ask for a reduction in assessed penalties if it will affect the operator's ability to continue in business. Another option for mine operators is to request a payment plan to lessen the impact of paying penalties in a lump sum.

Representative Rehberg provided five examples of enforcement actions that miners characterized as unwarranted citations. These citations were issued to the Genesis Inc. Troy Mine, an active underground copper mine located near Libby, Montana.

Following is a brief discussion of each of the noted violations.

Citation No. 6450734 was issued on August 5, 2009, for failure to provide safe access to the operator's station on a Caterpillar 988 front-end loader. A homemade ladder was added to the loader, which can cause a miner to swing under the loader on their first step. The swinging motion can put a miner in a position that would create an overextension in trying to reach the next step. In addition, the step rungs were too narrow for safe access. This loader was used on both shifts. This condition exposed the miner to a fall hazard when mounting and dismounting the loader and thereby not providing safe access. This citation was contested before a Federal Mine Safety and Health Review Commission's Administrative Law Judge and upheld.

Citations 6457288, 6457290, and 6457292 are related to an unplanned fire that occurred at a rail load facility. This facility had been regularly inspected by MSHA prior to the fire without jurisdictional questions. The fire was not extinguished within 30 minutes and mobile equipment was destroyed as a result of the fire. All three citations were contested by the operator based on jurisdiction. MSHA's regional Office of Solicitor reviewed the matter and offered the legal opinion that the rail load out facility was not within the definition of a mine and was outside the jurisdiction of MSHA. For this reason, MSHA made a motion to the administrative law judge to vacate the citations. The operator is aware of this motion and MSHA no longer inspects the facility.

Citation No. 6457819 was issued on May 23, 2010, for failure to provide illumination sufficient for safe working conditions in an electrical panel room. The light installed in the building to provide proper illumination was not working in the Flow Sensor Electrical Panel Room. This area is accessed on a daily basis by miners and a well illuminated room is needed for maintenance. Poor illumination exposes a miner to trip and fall hazards that can result in injury. The operator did not conference or contest this citation and paid the civil penalty of \$100.

The above referenced citations represent a small portion of the citations issued to the Troy Mine. The Troy Mine has a history of reportable injuries that indicates a need for enhanced efforts to improve safety. For the last eight reporting quarters, the Troy Mine has exceeded the national average incidence rate for Nonfatal Days Lost (NFDL) rates six times. So far during calendar year 2010, their NFDL incidence rate and the Total Incidence Rate are significantly above the national average. In calendar year 2010, Troy Mine's NFDL rate is 3.26 while the national average is 2.38; and their Total Incidence Rate is 4.35 compared to the national average of 3.73.

According to our records, the total number of hazard complaints filed at the Genesis Inc. Troy Mine since January 1, 2006, to date is 27, with positive findings in 11 of the complaint investigations.

Representative Rehberg states that MSHA is overzealous in its enforcement in Montana. A quick comparative analysis of Agency inspection records indicates metal and nonmetal mining operations in Montana are below the National and the Rocky Mountain District average in terms of citations issued per on-site inspection hour from October 1, 2009, through August 31, 2010. The table below provides violation per on-site inspection hour information.

Violations per On-Site Inspection Hour Comparison 10/01/2009 - 08/31/2010				
FY & Qtr	All Metal and Nonmetal	Rocky Mountain District	Helena MT Field Office	
2010 - 1	0.29	0.29	0.25	
2010 - 2	0.28	0.24	0.24	
2010 - 3	0.28	0.28	0.29	
2010 - 4*	0.29	0.26	0.27	
Totals**	0.28	0.27	0.26	

*4th quarter information through August 2010 only

**Totals information through August 2010 only

*** Quarterly mine rate not maintained

Representative Rehberg has requested copies of all citations issued to mine operators in the state of Montana and the inspectors' documentation of the violations cited for a two year period. Arrangements are being made to gather the requested information and the information will be forwarded to Representative Rehberg as soon as possible.

In his letter, the Congressman states that miners want to establish a better working relationship with MSHA. We are committed to effective communication with miners and mine operators, and providing notification of changes in regulations and policies. MSHA mails copies of all new or reissued guidance documents to mine operators, miners' representatives and other stakeholders. Notice of new guidance documents, *Federal Register* notices, major accident investigations, news releases, and other items of interest to our stakeholders are posted on the MSHA website. In addition, MSHA schedules public forums to emphasize major rulemaking and outreach efforts.

After reviewing Congressman Rehberg's concerns, I am confident that our enforcement actions at the Troy Mine and throughout the state of Montana are consistent with MSHA's policies, procedures, and its mission.

Initial Issuance Information (Source is IPAL)			
Violation Data			
Issue Date	Issue Time	Occurrence Date	Issuance Number
07/25/2011	0805	07/25/2011	8475603
Served To		Violator Name	
Tom Rice, Safety Manager		SIGNAL PEAK ENERGY LLC	
Mine Name		Mine ID	Contractor ID
BULL MOUNTAINS MINE NO 1		2401950	
Condition Or Practice			
On July 25, 2011 at approximately 0805 pm, a non-injury roof fall occurred at 98 cross cut of the 2 right long wall section of the mine. The roof fall extended 30' in by, 30' outby the center line of 98 cross cut and into the cross cut on the #2 entry side of the stopping between the #1 and #2 entry. The mine was immediately evacuated and power disconnected in the sections by the mine operator. A verbal 103J order was issued to the mine operator at 2005 pm (8:00 pm), withdrawing all personnel from the entire mine. This order will be terminated and all actions pertaining to this accident will be issued on 103K order 8464298, issued on 7-18-2011, modification #06.			
Enforcement Area		Section Of Act	30 CFR Part/Section
Written Notice 103G (Coal Only)			
N			
Inspector's Evaluation			
Gravity			
Injury or illness (has) (is)			
Injury or illness could reasonably be expected to be			
Significant And Substantial			
No Of Persons Affected			
Negligence			
Type Of Action	103(j)	Type Of Issuance	Order
Initial Action			
Initial Action Type		Initial Action Date	
Initial Action Number		Related Order	
Area Or Equipment			
Entir mine			
Termination Due Date			
Termination Due Time			
Termination Action			
Action To Terminate			
Termination Date			
Termination Time			
Automated System Data			
Type Of Inspection (Activity Code)		E08	
Event Number		4267746	
Primary Or Mill			

Initial Issuance Information (Source is IPAL)			
Violation Data			
Issue Date	Issue Time	Occurrence Date	Issuance Number
03/24/2011	1711	03/24/2011	8464646
Served To		Violator Name	
Tom Rice, Safety Manager		SIGNAL PEAK ENERGY LLC	
Mine Name		Mine ID	Contractor ID
BULL MOUNTAINS MINE NO 1		2401950	
Condition Or Practice			
A non fatal accident occurred at the pan conveyor and stage loader conveyor intersection point of the 1 Right longwall. This order is issued to ensure the safety of all persons at this operation. It prohibits all activity at the 1 Right longwall until MSHA has determined the area to be safe to recover and restore operations to this area. This order was issued verbally to Bob Hall, Mine Manager via phone. Note The mine is permitted to recover the amputated limb.			
Enforcement Area		Section Of Act	30 CFR Part/Section
Written Notice 103G (Coal Only)			
N			
Inspector's Evaluation			
Gravity			
Injury or illness (has) (is)			
Injury or illness could reasonably be expected to be			
Significant And Substantial			
No Of Persons Affected			
Negligence			
Type Of Action	103(j)	Type Of Issuance	Order
Initial Action			
Initial Action Type		Initial Action Date	
Initial Action Number		Related Order	
Area Or Equipment			
The 1 Right Longwall.			
Termination Due Date			
Termination Due Time			
Termination Action			
Action To Terminate			
Termination Date			
Termination Time			
Automated System Data			
Type Of Inspection (Activity Code)		E07	
Event Number		4268102	
Primary Or Mill			
AR Number		23965	
Following are the errors/warnings in the form			
<ul style="list-style-type: none"> Warning: Verify Occurrence Date for Part 50, Sampling and Accident related Issuances 			

Initial Issuance Information (Source is IPAL)			
Violation Data			
Issue Date	Issue Time	Occurrence Date	Issuance Number
09/04/2011	0930	09/04/2011	8465750
Served To		Violator Name	
Barry Schreckengost, CM		SIGNAL PEAK ENERGY LLC	
Coordinator			
Mine Name	Mine ID	Contractor ID	
BULL MOUNTAINS MINE NO 1	2401950		
Condition Or Practice			
The mine experienced a serious accident with injuries. This order is placed to ensure the safety of all miners and to preserve the scene until a full investigation can be completed.			
Enforcement Area	Section Of Act	30 CFR Part/Section	
Written Notice 103G (Coal Only)			
N			
Inspector's Evaluation			
Gravity			
Injury or illness (has) (is)			
Injury or illness could reasonably be expected to be			
Significant And Substantial			
No Of Persons Affected			
Negligence			
Type Of Action	103(j)	Type Of Issuance	Order
Initial Action			
Initial Action Type		Initial Action Date	
Initial Action Number		Related Order	
Area Or Equipment			
3 Right Section, Crosscut 49, entry 3 to 2.			
Termination Due Date			
Termination Due Time			
Termination Action			
Action To Terminate			
Termination Date			
Termination Time			
Automated System Data			
Type Of Inspection (Activity Code)		E07	
Event Number		4267915	
Primary Or Mill			
AR Number		23794	
Following are the errors/warnings in the form			
<ul style="list-style-type: none"> Warning: Verify Occurrence Date for Part 50, Sampling and Accident related Issuances 			

Initial Issuance Information (Source is IPAL)			
Violation Data			
Issue Date	Issue Time	Occurrence Date	Issuance Number
04/26/2011	0900	04/26/2011	8461581
Served To		Violator Name	
Tom Rice, Safety Director		SIGNAL PEAK ENERGY LLC	
Mine Name		Mine ID	Contractor ID
BULL MOUNTAINS MINE NO 1		2401950	
Condition Or Practice			
<p>An unplanned roof failure occurred at the 1 South /1 Right long wall extraction face area. The roof failed at a point between the tip of the shield and the face. This occurred on shields number 38,37,36 and 35. The sprags are loaded with debris from this roof failure that occurred above the anchorage of the roof bolts. Only persons needed to correct this problem will be allowed in the area. A plan has been developed and will be posted in the work area while the rehabilitation of this area is being done. Shield extraction will not be permitted until this condition has been corrected and resupported, and this K order is terminated. The rehabilitation Plan will proceed as follows: Remove the 3 rd trailing shield to allow for room to work. Install support at the corner of 38 shield and supporting towards shield 39 to brake the fall area from traveling further down the face. Temporary supports will be placed under shields 35,36, 37 and 38 before this work begins. When tempory supports have been set, the loose and unconsolidated fallen material can be removed using a scoop. When cleaned up the affected area must be resupported. Note this long wall is being removed from the head gate to the tailgate. Standard 75.202(a) was cited 12 times in two years at mine 2401950 (12 to the operator, 0 to a contractor).</p>			
Enforcement Area		Section Of Act	30 CFR Part/Section
Written Notice 103G (Coal Only)			
N			
Inspector's Evaluation			
Gravity			
Injury or illness (has) (is)			
Injury or illness could reasonably be expected to be			
Significant And Substantial			
No Of Persons Affected			
Negligence			
Type Of Action	103(k)	Type Of Issuance	Order
Initial Action			
Initial Action Type		Initial Action Date	
Initial Action Number		Related Order	
Area Or Equipment			
1st South / 1st Right Longwall from shield #28 towards the trailing shields. This is the area affected by the roof fall.			
Termination Due Date			
Termination Due Time			

Initial Issuance Information (Source is IPAL)			
Violation Data			
Issue Date	Issue Time	Occurrence Date	Issuance Number
07/18/2011	1015	07/18/2011	8464298
Served To		Violator Name	
Dale Musgrave, Mine Superintendent		SIGNAL PEAK ENERGY LLC	
Mine Name	Mine ID	Contractor ID	
BULL MOUNTAINS MINE NO 1	2401950		
Condition Or Practice			
A non injury, unplanned roof fall occurred in the #2 entry of the 2 right section in by 99 cross. The roof fall was approximately 160' long and the width of the #2 entry. It was discovered at approximately 0915 am and immediately reported to the MSHA hot line at approximately 0930 AM. A verbal 103-J order was issued to Dale Musgrave, Mine Superintendent at 1015 AM, withdrawing all personnel from the 2 right long wall section and in by 96 cross cut, 2 right.			
Enforcement Area	Section Of Act	30 CFR Part/Section	
Written Notice 103G (Coal Only)			
N			
Inspector's Evaluation			
Gravity			
Injury or illness (has) (is)			
Injury or illness could reasonably be expected to be			
Significant And Substantial			
No Of Persons Affected			
Negligence			
Type Of Action	103(j)	Type Of Issuance	Order
Initial Action			
Initial Action Type		Initial Action Date	
Initial Action Number		Related Order	
Area Or Equipment			
2 right section, #2 entry, inby 96 cross cut, including long wall face.			
Termination Due Date			
Termination Due Time			
Termination Action			
Action To Terminate			
Termination Date			
Termination Time			
Automated System Data			
Type Of Inspection (Activity Code)		E08	
Event Number		4267744	
Primary Or Mill			
AR Number		24587	
Following are the errors/warnings in the form			
<ul style="list-style-type: none"> Warning: Verify Occurrence Date for Part 50, Sampling and Accident related Issuances 			

Initial Issuance Information (Source is IPAL)			
Violation Data			
Issue Date	Issue Time	Occurrence Date	Issuance Number
08/12/2011	1330	08/12/2011	8464681
Served To		Violator Name	
Tom Rice, Safety Manager		SIGNAL PEAK ENERGY LLC	
Mine Name	Mine ID	Contractor ID	
BULL MOUNTAINS MINE NO 1	2401950		
Condition Or Practice			
The mine experienced an unplanned roof fall, above the anchorage zone, in the 2 Entry of 2 right section, between XC 103 and XC 104. No miners were injured during this roof fall. All mining activity in this section is ordered to cease immediately and supplemental floor to roof support shall be installed at safe locations (breaker rows) surrounding the roof fall in an attempt to contain the area and keep the fall area to a minimum.			
Enforcement Area	Section Of Act	30 CFR Part/Section	
Written Notice 103G (Coal Only)			
N			
Inspector's Evaluation			
Gravity			
Injury or illness (has) (is)			
Injury or illness could reasonably be expected to be			
Significant And Substantial			
No Of Persons Affected			
Negligence			
Type Of Action	103(j)	Type Of Issuance	Order
Initial Action			
Initial Action Type		Initial Action Date	
Initial Action Number		Related Order	
Area Or Equipment			
2 Right longwall section from LOXC (XC 92) inby to the 3 Right intake portal.			
Termination Due Date			
Termination Due Time			
Termination Action			
Action To Terminate			
Termination Date			
Termination Time			
Automated System Data			
Type Of Inspection (Activity Code)		E08	
Event Number		4268110	
Primary Or Mill			
AR Number		23965	
Following are the errors/warnings in the form			
<ul style="list-style-type: none"> Warning: Verify Occurrence Date for Part 50, Sampling and Accident related Issuances 			

Initial Issuance Information (Source is IPAL)			
Violation Data			
Issue Date	Issue Time	Occurrence Date	Issuance Number
07/22/2011	0841	07/22/2011	8475602
Served To		Violator Name	
Dale Musgrave, Mine Superintendent		SIGNAL PEAK ENERGY LLC	
Mine Name	Mine ID	Contractor ID	
BULL MOUNTAINS MINE NO 1	2401950		
Condition Or Practice			
On July 22, 2011 at approximately 0815 am, a non-injury roof fall occurred at 75 cross cut of the East Mains section of the mine. The roof fall extended across 75 cross cut from inside the #3 entry through the #4 entry to the #5 entry and was located above the overcasts for the return entry of 3 right. The roof fall affected the ventilation of the mine. and the mine was immediately evacuated and power disconnected by the mine operator. A verbal 103J order was issued to the mine operator at 0841 am, withdrawing all personnel from the entire mine. This order will be terminated and all actions pertaining to this accident will be issued on 103K order 8464298, issued on 7-18-2011.			
Enforcement Area	Section Of Act	30 CFR Part/Section	
Written Notice 103G (Coal Only)			
N			
Inspector's Evaluation			
Gravity			
Injury or illness (has) (is)			
Injury or illness could reasonably be expected to be			
Significant And Substantial			
No Of Persons Affected			
Negligence			
Type Of Action	103(j)	Type Of Issuance	Order
Initial Action			
Initial Action Type		Initial Action Date	
Initial Action Number		Related Order	
Area Or Equipment			
All miners in the entire mine.			
Termination Due Date			
Termination Due Time			
Termination Action			
Action To Terminate			
This order is terminated and all actions pertaining to this accident investigation will be issued on the 103K order #8464298 issued on 7-18-2011, for the roof fall that occurred in the 2 right section of the mine, in by 99 cross cut.			
Termination Date		07/22/2011	
Termination Time		1532	

Initial Issuance Information (Source is IPAL)			
Violation Data			
Issue Date	Issue Time	Occurrence Date	Issuance Number
04/18/2011	0900	04/16/2011	6457923
Served To	Violator Name		
Matt Knight - Safety Manager	STILLWATER MINING COMPANY		
Mine Name	Mine ID	Contractor ID	
STILLWATER MINE	2401490		
Condition Or Practice			
A fall of ground occurred at the 35 East 9800 Stope. A verbal 103j Order was issued by Michael Dennehy (Assistant District Manager) at 11:50 PM on 4/16 2011, to keep all personnel out of this area. The fall of ground is approximately 10 ft long, 9 ft high, and 10 ft wide. The travel way was not blocked and the ventilation is not affected. The area has been barricaded off until an Authorized Representative can look at the area.			
Enforcement Area	Section Of Act	30 CFR Part/Section	
Written Notice 103G (Coal Only)			
Inspector's Evaluation			
Gravity			
Injury or illness (has) (is)			
Injury or illness could reasonably be expected to be			
Significant And Substantial			
No Of Persons Affected			
Negligence			
Type Of Action	103(j)	Type Of Issuance	Order
Initial Action			
Initial Action Type	Initial Action Date		
Initial Action Number	Related Order		
Area Or Equipment			
The 35 East 9800 Stope.			
Termination Due Date			
Termination Due Time			
Termination Action			
Action To Terminate			
Termination Date			
Termination Time			
Automated System Data			
Type Of Inspection (Activity Code)	E08		
Event Number	1107014		
Primary Or Mill	Primary		
AR Number	4298		
Following are the errors/warnings in the form			
<ul style="list-style-type: none"> Warning: Verify Occurrence Date for Part 50, Sampling and Accident related Issuances 			

INITIAL
103 J

Subsequent Action Information (Source is IPAL)			
Note: This is the composite view of the Issuance as of 04/19/2011 1444			
Subsequent Action			
Subsequent Action Number 6457923-01		Subsequent Action Type Modify	
Subsequent Action Date and Time 04/19/2011 1444			
Subsequent Action Event Number 1107014		Subsequent Action AR Number 4298	
Vacate Date		Vacate Time	
Subsequent Action Mine ID 2401490		Subsequent Action Activity Code E08	
Subsequent Action Served To Matt Knight - Safety Manager		Conference Result N	
Justification Text To insure the safety of all persons in the 35 East 9800 Stope area where the fall of ground occurred.12. Type of Action1To insure the safety of all persons in the 35 East 9800 Stope Area where the fall of ground occurred.			
Violation Data			
Issue Date 04/18/2011	Issue Time 0900	Occurrence Date 04/16/2011	Issuance Number 6457923
Served To Matt Knight - Safety Manager		Violator Name STILLWATER MINING COMPANY	
Mine Name STILLWATER MINE	Mine ID 2401490	Contractor ID	
Condition Or Practice A fall of ground occurred at the 35 East 9800 Stope. A verbal 103j Order was issued by Michael Dennehy (Assistant District Manager) at 11:50 PM on 4/16 2011, to keep all personnel out of this area. The fall of ground is approximately 10 ft long, 9 ft high, and 10 ft wide. The travel way was not blocked and the ventilation is not affected. The area has been barricaded off until an Authorized Representative can look at the area. To insure the safety of all persons in the 35 East 9800 Stope area where the fall of ground occurred. This 103k Order is to allow those personnel deemed necessary by the operator to rehabilitate the area of the fall of ground at the 35 East 9800 Stope. A plan of action to rehabilitate the area has been developed and will be started tonight. A copy of this plan of action is included in this report and has been approved by all parties involved. After the rehabilitation has been completed MSHA will revisit the area to determine if it is safe.			
Enforcement Area Written Notice 103G (Coal Only)		Section Of Act 30 CFR Part/Section	
Inspector's Evaluation			
Gravity			
Injury or illness (has) (is)			
Injury or illness could reasonably be expected to be			
Significant And Substantial			
No Of Persons Affected			

MODIFIED
TO
103K

Initial Issuance Information (Source is IPAL)			
Violation Data			
Issue Date	Issue Time	Occurrence Date	Issuance Number
06/24/2011	0904	06/24/2011	8588258
Served To	Violator Name		
Dee Bray, Mine Manager	STILLWATER MINING COMPANY		
Mine Name	Mine ID	Contractor ID	
STILLWATER MINE	2401490		
Condition Or Practice			
An accident occurred at this operation on 06/24/2011 at approximately 09:04 am. This order is being issued under section 103J of the Federal Mine Safety and Health Act of 1977 to prevent the destruction of any evidence which would assist in investigation of the cause or causes of the accident. If possible all activities on the ramp from the 3800 level down to the 3200 level and any other affected area until MSHA has determined that it is safe resume normal mining activities. This order applies to all persons engaged in rescue and recovery and all persons on site. This order was initially issued orally to the Mine Operator at approximately 10:00 am and has now been reduced to writing.			
Enforcement Area	Section Of Act	30 CFR Part/Section	
Written Notice 103G (Coal Only)			
Inspector's Evaluation			
Gravity			
Injury or illness (has) (is)			
Injury or illness could reasonably be expected to be			
Significant And Substantial			
No Of Persons Affected			
Negligence			
Type Of Action	103(j)	Type Of Issuance	Order
Initial Action			
Initial Action Type	Initial Action Date		
Initial Action Number	Related Order		
Area Or Equipment			
The 3800 level down to the 3200 level and any other affected area.			
Termination Due Date			
Termination Due Time			
Termination Action			
Action To Terminate			
Termination Date			
Termination Time			
Automated System Data			
Type Of Inspection (Activity Code)	E16		
Event Number	1106754		
Primary Or Mill	Primary		
AR Number	1191		

INITIAL
103 J

Subsequent Action Information (Source is IPAL)			
Note: This is the composite view of the Issuance as of 06/24/2011 1615			
Subsequent Action			
Subsequent Action Number 8588258-01		Subsequent Action Type Modify	
Subsequent Action Date and Time 06/24/2011 1615			
Subsequent Action Event Number 1106754		Subsequent Action AR Number 1191	
Vacate Date		Vacate Time	
Subsequent Action Mine ID 2401490		Subsequent Action Activity Code E16	
Subsequent Action Served To Dee Bray, Mine Manager		Conference Result N	
Justification Text The initial order is modified to reflect that MSHA is now proceeding under the authority of Section 103K of the Federal Mine Safety and health Act of 1977. This Section 103K order is intended to protect the safety of all persons on site, including those involved in rescue and recovery or investigation of the accident. The Mine Operator shall obtain prior approval from an Authorized Representative of the Secretary for all actions to recover and or restore operations in the affected areas. Additionally, the Mine Operator is reminded of its existing obligation to prevent destruction of evidence that would aid in investigating the cause or causes of the accident. 12. Type of Action 1 Modify to 103k			
Violation Data			
Issue Date 06/24/2011	Issue Time 0904	Occurrence Date 06/24/2011	Issuance Number 8588258
Served To Dee Bray, Mine Manager		Violator Name STILLWATER MINING COMPANY	
Mine Name STILLWATER MINE		Mine ID 2401490	Contractor ID
Condition Or Practice An accident occurred at this operation on 06/24/2011 at approximately 09:04 am. This order is being issued under section 103J of the Federal Mine Safety and Health Act of 1977 to prevent the destruction of any evidence which would assist in investigation of the cause or causes of the accident. If possible all activities on the ramp from the 3800 level down to the 3200 level and any other affected area until MSHA has determined that it is safe resume normal mining activities. This order applies to all persons engaged in rescue and recovery and all persons on site. This order was initially issued orally to the Mine Operator at approximately 10:00 am and has now been reduced to writing.			
Enforcement Area Written Notice 103G (Coal Only)		Section Of Act 30 CFR Part/Section	
Inspector's Evaluation			
Gravity			
Injury or illness (has) (is)			
Injury or illness could reasonably be expected to be			

MODIFIED
TO
103K

Initial Issuance Information (Source is IPAL)			
Violation Data			
Issue Date	Issue Time	Occurrence Date	Issuance Number
08/10/2011	1744	08/10/2011	6593587
Served To	Violator Name		
Dee Bray, Mine mg.	STILLWATER MINING COMPANY		
Mine Name	Mine ID	Contractor ID	
STILLWATER MINE	2401490		
Condition Or Practice			
At 1642 on 8/10/2011 smoke was reported at the 38 level shop, stench was dumped at 1642 The mine was evacuated. The 104K order is issued for the underground mine. The company must follow the requirements of the mine act under 103K to insure the safety of all employees in the underground mine. The order is in effect until MSHA releases the mine rescue team has cleared the mine and all employees are accounted for.			
Enforcement Area	Section Of Act	30 CFR Part/Section	
Written Notice 103G (Coal Only)			
Inspector's Evaluation			
Gravity			
Injury or illness (has) (is)			
Injury or illness could reasonably be expected to be			
Significant And Substantial			
No Of Persons Affected			
Negligence			
Type Of Action	103(k)	Type Of Issuance	Order
Initial Action			
Initial Action Type		Initial Action Date	
Initial Action Number		Related Order	
Area Or Equipment			
all areas of the underground mine 2401490 MSHA ID			
Termination Due Date			
Termination Due Time			
Termination Action			
Action To Terminate			
Termination Date			
Termination Time			
Automated System Data			
Type Of Inspection (Activity Code)		E09	
Event Number		6554286	
Primary Or Mill		Primary	
AR Number		1169	

INITIAL
103K

Initial Issuance Information (Source is IPAL)			
Violation Data			
Issue Date	Issue Time	Occurrence Date	Issuance Number
10/18/2011	2000	10/18/2011	6592777
Served To		Violator Name	
DEE BRAY - MINE MANAGER		STILLWATER MINING COMPANY	
Mine Name	Mine ID	Contractor ID	
STILLWATER MINE	2401490		
Condition Or Practice			
A FIRE OCCURRED AT THIS OPERATION ON 10/18/2011. AS RESCUE AND RECOVERY WORK IS NECESSARY THIS ORDER IS BEING ISSUED UNDER SECTION 103(j) OF THE FEDERAL MINE SAFETY AND HEALTH ACT OF 1977, TO ASSURE THE SAFETY OF ALL PERSONS AT THIS OPERATION. THIS ORDER IS ALSO BEING ISSUED TO PREVENT THE DESTRUCTION OF ANY EVIDENCE WHICH WOULD ASSIST IN INVESTIGATING THE CAUSE OR CAUSES OF THE ACCIDENT. IT PROHIBITS ALL ACTIVITY IN THE 63 WEST 17500 AREA EXCEPT TO THE EXTENT NECESSARY TO RESCUE AN INDIVIDUAL OR PREVENT OR ELIMINATE AN IMMINENT DANGER UNTIL MSHA HAS DETERMINED THAT IT IS SAFE TO RESUME NORMAL MINING OPERATIONS IN THIS AREA. THIS ORDER APPLIES TO ALL PERSONS ENGAGED IN THE RESCUE AND RECOVERY OPERATION AND ANY OTHER PERSONS ON-SITE. THIS ORDER WAS INITIALLY ISSUED ORALLY TO THE MINE OPERATOR AT 20:00 AND HAS BEEN REDUCED TO WRITING.			
Enforcement Area	Section Of Act	30 CFR Part/Section	
Written Notice 103G (Coal Only)			
Inspector's Evaluation			
Gravity			
Injury or illness (has) (is)			
Injury or illness could reasonably be expected to be			
Significant And Substantial			
No Of Persons Affected			
Negligence			
Type Of Action	103(j)	Type Of Issuance	Order
Initial Action			
Initial Action Type		Initial Action Date	
Initial Action Number		Related Order	
Area Or Equipment			
63 WEST 17500 AREA			
Termination Due Date			
Termination Due Time			
Termination Action			
Action To Terminate			
Termination Date			

INITIAL
103J

Subsequent Action Information (Source is IPAL)			
Note: This is the composite view of the Issuance as of 10/19/2011 1145			
Subsequent Action			
Subsequent Action Number 6592777-01		Subsequent Action Type Modify	
Subsequent Action Date and Time 10/19/2011 1145			
Subsequent Action Event Number 1107239		Subsequent Action AR Number 1558	
Vacate Date		Vacate Time	
Subsequent Action Mine ID 2401490		Subsequent Action Activity Code E08	
Subsequent Action Served To DEE BRAY - MINE MANAGER		Conference Result N	
Justification Text			
Violation Data			
Issue Date 10/18/2011	Issue Time 2000	Occurrence Date 10/18/2011	Issuance Number 6592777
Served To DEE BRAY - MINE MANAGER		Violator Name STILLWATER MINING COMPANY	
Mine Name STILLWATER MINE	Mine ID 2401490	Contractor ID	
Condition Or Practice A FIRE OCCURRED AT THIS OPERATION ON 10/18/2011. AS RESCUE AND RECOVERY WORK IS NECESSARY THIS ORDER IS BEING ISSUED UNDER SECTION 103(j) OF THE FEDERAL MINE SAFETY AND HEALTH ACT OF 1977, TO ASSURE THE SAFETY OF ALL PERSONS AT THIS OPERATION. THIS ORDER IS ALSO BEING ISSUED TO PREVENT THE DESTRUCTION OF ANY EVIDENCE WHICH WOULD ASSIST IN INVESTIGATING THE CAUSE OR CAUSES OF THE ACCIDENT. IT PROHIBITS ALL ACTIVITY IN THE 63 WEST 17500 AREA EXCEPT TO THE EXTENT NECESSARY TO RESCUE AN INDIVIDUAL OR PREVENT OR ELIMINATE AN IMMINENT DANGER UNTIL MSHA HAS DETERMINED THAT IT IS SAFE TO RESUME NORMAL MINING OPERATIONS IN THIS AREA. THIS ORDER APPLIES TO ALL PERSONS ENGAGED IN THE RESCUE AND RECOVERY OPERATION AND ANY OTHER PERSONS ON-SITE. THIS ORDER WAS INITIALLY ISSUED ORALLY TO THE MINE OPERATOR AT 20:00 AND HAS BEEN REDUCED TO WRITING. REASON: THE INITIAL ORDER IS MODIFIED TO REFLECT MSHA IS NOW PROCEEDING UNDER THE AUTHORITY OF SECTION 103(k) OF THE FEDERAL MINE SAFETY AND HEALTH ACT OF 1977. THE INITIAL ORDER IS MODIFIED TO REFLECT THAT MSHA IS NOW PROCEEDING UNDER THE AUTHORITY OF SECTION 103(k) OF THE FEDERAL MINE SAFETY AND HEALTH ACT OF 1977. THIS SECTION 103(k) ORDER IS INTENDED TO PROTECT THE SAFETY OF ALL PERSONS ON-SITE, INCLUDING THOSE INVOLVED IN RESCUE AND RECOVERY OPERATIONS OR INVESTIGATION OF THE ACCIDENT. THE MINE OPERATOR SHALL OBTAIN PRIOR APPROVAL FROM AN AUTHORIZED			

MODIFIED
103J
TO
103K

12/16/2011

Initial Issuance Information (Source is IPAL)			
Violation Data			
Issue Date	Issue Time	Occurrence Date	Issuance Number
10/19/2011	1030	10/19/2011	6592778
Served To	Violator Name		
DEE BRAY - MINE MANAGER	STILLWATER MINING COMPANY		
Mine Name	Mine ID	Contractor ID	
STILLWATER MINE	2401490		
Condition Or Practice			
A FIRE OCCURRED AT THIS OPERATION ON OCTOBER 19, 2011. THIS 103(k) ORDER IS BEING ISSUED TO ASSURE THE SAFETY OF PERSONS AT THIS OPERATION AND PROHIBITS ANY WORK IN THE AFFECTED AREA UNTIL MSHA DETERMINES THAT IT IS SAFE TO RESUME NORMAL OPERATIONS AS DETERMINED BY AN AUTHORIZED REPRESENTATIVE OF THE SECRETARY OF LABOR. THE MINE OPERATOR SHALL OBTAIN APPROVAL FROM AN AUTHORIZED REPRESENTATIVE FOR ALL ACTIONS TO RECOVER AND/OR RESTORE OPERATIONS IN THE AFFECTED AREA.			
Enforcement Area	Section Of Act	30 CFR Part/Section	
Written Notice 103G (Coal Only)			
Inspector's Evaluation			
Gravity			
Injury or illness (has) (is)			
Injury or illness could reasonably be expected to be			
Significant And Substantial			
No Of Persons Affected			
Negligence			
Type Of Action	103(k)	Type Of Issuance	Order
Initial Action			
Initial Action Type	Initial Action Date		
Initial Action Number	Related Order		
Area Or Equipment			
29 WEST 7000 STOPE AREA.			
Termination Due Date			
Termination Due Time			
Termination Action			
Action To Terminate			
Termination Date			
Termination Time			
Automated System Data			
Type Of Inspection (Activity Code)	E08		
Event Number	1107240		
Primary Or Mill	Primary		
AR Number	1558		
Following are the errors/warnings in the form			
<ul style="list-style-type: none"> Warning: Verify Occurrence Date for Part 50, Sampling and Accident related Issuances 			

INITIAL

103K

Initial Issuance Information (Source is IPAL)			
Violation Data			
Issue Date	Issue Time	Occurrence Date	Issuance Number
10/22/2011	1012	10/22/2011	6592779
Served To		Violator Name	
RYAN MORRIS - SAFETY MANAGER		STILLWATER MINING COMPANY	
Mine Name	Mine ID	Contractor ID	
STILLWATER MINE	2401490		
Condition Or Practice			
AN ACCIDENT OCCURRED AT THIS OPERATION ON OCTOBER 22, 2011, WHEN THE GROUND FEEL ABOVE THE ANCHORAGE POINT OF THE BOLTS. THIS ORDER IS BEING ISSUED TO ASSURE THE SAFETY OF PERSONS AT THIS OPERATION AND PROHIBITS ANY WORK IN THE AFFECTED AREA UNTIL MSHA DETERMINES THAT IT IS SAFE TO RESUME NORMAL OPERATIONS AS DETERMINED BY AN AUTHORIZED REPRESENTATIVE OF THE SECRETARY OF LABOR. THE MINE OPERATOR SHALL OBTAIN APPROVAL FROM AN AUTHORIZED REPRESENTATIVE FOR ALL ACTIONS TO RECOVER AND/OR RESTORE OPERATIONS IN THE AFFECTED AREA.			
Enforcement Area	Section Of Act	30 CFR Part/Section	
Written Notice 103G (Coal Only)			
Inspector's Evaluation			
Gravity			
Injury or illness (has) (is)			
Injury or illness could reasonably be expected to be			
Significant And Substantial			
No Of Persons Affected			
Negligence			
Type Of Action	103(k)	Type Of Issuance	Order
Initial Action			
Initial Action Type	Initial Action Date		
Initial Action Number	Related Order		
Area Or Equipment			
23 WEST 2600 AREA			
Termination Due Date			
Termination Due Time			
Termination Action			
Action To Terminate			
Termination Date			
Termination Time			
Automated System Data			
Type Of Inspection (Activity Code)	E07		
Event Number	1107241		
Primary Or Mill	Primary		

INITIAL

103K

Initial Issuance Information (Source is IPAL)			
Violation Data			
Issue Date 10/31/2011	Issue Time 1545	Occurrence Date 10/31/2011	Issuance Number 6592787
Served To MATT KNIGHT-HUMAN RESOURCE MANAGER		Violator Name STILLWATER MINING COMPANY	
Mine Name STILLWATER MINE		Mine ID 2401490	Contractor ID
Condition Or Practice AN ACCIDENT OCCURRED AT THIS OPERATION ON 10/31/2011 AT APPROXIMATELY 15:00. AS RESCUE AND RECOVERY WORK IS NECESSARY THIS ORDER IS BEING ISSUED UNDER SECTION 103 (j) OF THE FEDERAL MINE SAFETY AND HEALTH ACT OF 1977, TO ASSURE THE SAFETY OF ALL PERSONS AT THIS OPERATION. THIS ORDER IS ALSO BEING ISSUED TO PREVENT THE DESTRUCTION OF ANY EVIDENCE WHICH WOULD ASSIST IN INVESTIGATING THE CAUSE OR CAUSES OF THE ACCIDENT. IT PROHIBITS ALL ACTIVITY FROM THE 38 WEST 4500 TO THE 5000 AREA OF THE FOOT-WALL-LATERAL, EXCEPT TO THE EXTENT NECESSARY TO RESCUE AN INDIVIDUAL OR PREVENT OR ELIMINATE AN IMMINENT DANGER UNTIL MSHA HAS DETERMINED THAT IT IS SAFE TO RESUME NORMAL MINING OPERATIONS IN THIS AREA. THIS ORDER APPLIES TO ALL PERSONS ENGAGED IN THE RESCUE AND RECOVERY OPERATION AND ANY OTHER PERSONS ON-SITE. THIS ORDER WAS INITIALLY ISSUED ORALLY TO THE MINE OPERATOR AT 15:45 AND HAS BEEN REDUCED TO WRITING.			
Enforcement Area	Section Of Act	30 CFR Part/Section	
Written Notice 103G (Coal Only)			
Inspector's Evaluation			
Gravity			
Injury or illness (has) (is)			
Injury or illness could reasonably be expected to be			
Significant And Substantial			
No Of Persons Affected			
Negligence			
Type Of Action	103(j)	Type Of Issuance	Order
Initial Action			
Initial Action Type		Initial Action Date	
Initial Action Number		Related Order	
Area Or Equipment 38 WEST 4500 TO 5000 AREA ON THE FOOT-WALL-LATERAL			
Termination Due Date			
Termination Due Time			
Termination Action			
Action To Terminate			

INITIAL
103 J

Subsequent Action Information (Source is IPAL)			
Note: This is the composite view of the Issuance as of 10/31/2011 2130			
Subsequent Action			
Subsequent Action Number 6592787-01		Subsequent Action Type Modify	
Subsequent Action Date and Time 10/31/2011 2130			
Subsequent Action Event Number 1107243		Subsequent Action AR Number 1558	
Vacate Date		Vacate Time	
Subsequent Action Mine ID 2401490		Subsequent Action Activity Code E06	
Subsequent Action Served To MATT KNIGHT-HUMAN RESOURCE MANAGER		Conference Result N	
Justification Text 12. Type of Action1REASON: THE INITIAL ORDER IS MODIFIED TO REFLECT MSHA IS NOW PROCEEDING UNDER THE AUTHORITY OF SECTION 103(k) OF THE FEDERAL MINE SAFETY AND HEALTH ACT OF 1977.			
Violation Data			
Issue Date 10/31/2011	Issue Time 1545	Occurrence Date 10/31/2011	Issuance Number 6592787
Served To MATT KNIGHT-HUMAN RESOURCE MANAGER		Violator Name STILLWATER MINING COMPANY	
Mine Name STILLWATER MINE	Mine ID 2401490	Contractor ID	
Condition Or Practice AN ACCIDENT OCCURRED AT THIS OPERATION ON 10/31/2011 AT APPROXIMATELY 15:00. AS RESCUE AND RECOVERY WORK IS NECESSARY THIS ORDER IS BEING ISSUED UNDER SECTION 103 (j) OF THE FEDERAL MINE SAFETY AND HEALTH ACT OF 1977, TO ASSURE THE SAFETY OF ALL PERSONS AT THIS OPERATION. THIS ORDER IS ALSO BEING ISSUED TO PREVENT THE DESTRUCTION OF ANY EVIDENCE WHICH WOULD ASSIST IN INVESTIGATING THE CAUSE OR CAUSES OF THE ACCIDENT. IT PROHIBITS ALL ACTIVITY FROM THE 38 WEST 4500 TO THE 5000 AREA OF THE FOOT-WALL-LATERAL, EXCEPT TO THE EXTENT NECESSARY TO RESCUE AN INDIVIDUAL OR PREVENT OR ELIMINATE AN IMMINENT DANGER UNTIL MSHA HAS DETERMINED THAT IT IS SAFE TO RESUME NORMAL MINING OPERATIONS IN THIS AREA. THIS ORDER APPLIES TO ALL PERSONS ENGAGED IN THE RESCUE AND RECOVERY OPERATION AND ANY OTHER PERSONS ON-SITE. THIS ORDER WAS INITIALLY ISSUED ORALLY TO THE MINE OPERATOR AT 15:45 AND HAS BEEN REDUCED TO WRITING. REASON: THE INITIAL ORDER IS MODIFIED TO REFLECT MSHA IS NOW PROCEEDING UNDER THE AUTHORITY OF SECTION 103(k) OF THE FEDERAL MINE SAFETY AND HEALTH ACT OF 1977.THE			

MODIFIED
From
103 J
To
103 K

INITIAL ORDER IS MODIFIED TO REFLECT THAT MSHA IS NOW PROCEEDING UNDER THE AUTHORITY OF SECTION 103(k) OF THE FEDERAL MINE SAFETY AND HEALTH ACT OF 1977. THIS SECTION 103(k) ORDER IS INTENDED TO PROTECT THE SAFETY OF ALL PERSONS ON-SITE, INCLUDING THOSE INVOLVED IN RESCUE AND RECOVERY OPERATIONS OR INVESTIGATION OF THE ACCIDENT. THE MINE OPERATOR SHALL OBTAIN PRIOR APPROVAL FROM AN AUTHORIZED REPRESENTATIVE OF THE SECRETARY FOR ALL ACTIONS TO RECOVER AND/OR RESTORE OPERATIONS IN THE AFFECTED AREA. ADDITIONALLY, THE MINE OPERATOR IS REMINDED OF ITS EXISTING OBLIGATIONS TO PREVENT THE DESTRUCTION OF EVIDENCE THAT WOULD AID IN THE INVESTIGATING THE CAUSES OR CAUSE OF THE ACCIDENT.

Enforcement Area Section Of Act 30 CFR
Part/Section

Written Notice 103G (Coal Only)

Inspector's Evaluation

Gravity

Injury or illness (has) (is)

Injury or illness could reasonably be expected to be

Significant And Substantial

No Of Persons Affected

Negligence

Type Of Action 103(k) Type Of Issuance Order

Initial Action

Initial Action Type

Initial Action Date

Initial Action Number

Related Order

Area Or Equipment

38 WEST 4500 TO 5000 AREA ON THE FOOT-WALL-LATERAL

Termination Due Date

Termination Due Time

Termination Action

Action To Terminate

Termination Date

Termination Time

Automated System Data

Type Of Inspection (Activity Code)

E06

Event Number

1107243

Primary Or Mill

Primary

AR Number

1558

Following are the errors/warnings in the form

- *Warning: Is this issuance written in conjunction with a 107a order?*
- *Warning: Verify Occurrence Date for Part 50, Sampling and Accident related Issuances*

Initial Issuance Information (Source is IPAL)			
Violation Data			
Issue Date	Issue Time	Occurrence Date	Issuance Number
07/09/2011	1330	07/09/2011	6592653
Served To		Violator Name	
PHIL HOVIS - SUPERINTENDENT		STILLWATER MINING COMPANY	
Mine Name	Mine ID	Contractor ID	
STILLWATER MINE	2401490		
Condition Or Practice			
<p>MATERIAL (ROCK) CONTROL CHAINS ARE MISSING AND BROKEN ON BOTH THE ORE AND WASTE CHUTES LOCATED ON THE 3100 LEVEL FOR THE MAIN CRUSHER. EMPLOYEES HAVE TO WORK IN THIS AREA TO BLOW PIPE AND BRING DOWN HANG-UPS. THE MISSING CHAINS ALLOW MATERIAL (ROCK) TO FLY AT THEM WHILE THEY ARE PERFORMING THESE TASKS. THE EMPLOYEES HAVE TO DUCK FLYING MATERIAL TO PREVENT INJURY. THE REPAIR PARTS WERE ORDERED ON 2/11/11 AND WERE ON MINE SITE ON 2/28/11 AND THE COMPANY HAS NOT MADE ANY ATTEMPT TO REPLACE THE BROKEN AND MISSING CHAINS. THIS CONDITION HAS BEEN REPORTED TO THE COMPANY ON WORK PLACE EXAMS. A PERSON COULD BE INJURED IF THEY WERE TO BE STRUCK BY FLYING ROCK. MINE MANAGEMENT HAS ENGAGED IN AGGRAVATED CONDUCT CONSTITUTING MORE THAN ORDINARY NEGLIGENCE AS THEY WERE AWARE OF THE CONDITION AND HAVE NOT CORRECTED THUS CONDITION IN SEVERAL MONTHS. THIS VIOLATION IS AN UNWARRANTABLE FAILURE TO COMPLY WITH MANDATORY STANDARD.</p>			
Enforcement Area	Section Of Act	30 CFR Part/Section 57.9309	
Written Notice 103G (Coal Only)		Potential Flagrant Violation Indicator	
Inspector's Evaluation			
Gravity			
Injury or illness (has) (is)			
Reasonably			
Injury or illness could reasonably be expected to be			
LostDays			
Significant And Substantial Y			
No Of Persons Affected 2			
Negligence			
HighNegligence			
Type Of Action	104(d)(1)	Type Of Issuance	Citation
Initial Action			
Initial Action Type		Initial Action Date	
Initial Action Number		Related Order	
Area Or Equipment			
Termination Due Date 07/09/2011			

104 D 1

Initial Issuance Information (Source is IPAL)			
Violation Data			
Issue Date 03/01/2011	Issue Time 1330	Occurrence Date 03/01/2011	Issuance Number 6591981
Served To LARRY MARTIN - GENERAL FOREMAN		Violator Name STILLWATER MINING COMPANY	
Mine Name STILLWATER MINE	Mine ID 2401490	Contractor ID	
Condition Or Practice UNDERGROUND HAZARD AWARENESS TRAINING HAD NOT BEEN GIVEN TO THE CONTRACT MECHANIC WORKING FOR MINING TECHNOLOGIES INTERNATIONAL, THAT WAS ASSIGNED TO WORK ON A JUMBO DRILL IN THE 3800 SHOP. THE MINER HAD NOT RECEIVED TRAINING SINCE 2007 ON THIS ISSUE. A PERSON COULD BE INJURED IF THEY ARE NOT PROPERLY TRAINED ON THE ISSUES AND PROCEDURES AT THE MINE.			
Enforcement Area	Section Of Act	30 CFR Part/Section 48.11	
Written Notice 103G (Coal Only)			
Inspector's Evaluation			
Gravity			
Injury or illness (has) (is) Unlikely Injury or illness could reasonably be expected to be Permanent Significant And Substantial N No Of Persons Affected 1			
Negligence			
ModNegligence			
Type Of Action	104(g)(1)	Type Of Issuance	Order
Initial Action			
Initial Action Type		Initial Action Date	
Initial Action Number		Related Order	
Area Or Equipment JOSH LaCORIX - MECHANIC.			
Termination Due Date			
Termination Due Time			
Termination Action			
Action To Terminate THE MINER HAS RECEIVED THE TRAINING AND IT HAS BEEN DOCUMENTED.			
Termination Date		03/01/2011	
Termination Time		1435	
Automated System Data			
Type Of Inspection (Activity Code)		E01	
Event Number		1107203	
Primary Or Mill		Primary	
AR Number		1558	

104 G1



Fatality #12 – October 31, 2011
Powered Haulage - Platinum
Stillwater Mining Company - Stillwater Mine

METAL/NONMETAL MINE FATALITY -On October 31, 2011, a 42 year-old muck haul leadman with 3½ years of experience was killed in an underground platinum mine. The victim was operating a 4-yard loader in a drift when the loader struck the left rib. At that time, a spiling (rebar anchored in the rib for ground control) that was protruding from the rib, penetrated the front side window, entered the cab, and struck him.



Best Practices

- Operators of self-propelled mobile equipment shall maintain control of the equipment while it is in motion.
- Maintain all roadways free of materials that may pose a hazard to equipment operators. This includes materials on the floor and protruding from the ribs, back, or walls.
- Operating speeds shall be consistent with conditions of roadways, tracks, grades, clearance, visibility, curves, and traffic.
- Slow down or drop to a lower gear when necessary. Post areas where lower speeds are warranted.
- Always wear a seat belt when operating self-propelled mobile equipment.
- Trim protruding splittings.
- Keep mobile equipment operator's stations free of materials that can impair the safe operation of the equipment.
- When clearances on roadways are restricted, install warning devices in advance of the area and conspicuously mark it.

This is the 12th fatality reported in calendar year 2011 in the metal and nonmetal mining industries. As of this date in 2010, there were 18 fatalities reported in these industries. This is the 3rd Powered Haulage fatality in 2011. There were 3 Powered Haulage fatalities in the same period in 2010.

“Our collective mission is to create the safest work environment possible here at our mine” said **Don Wallace**, a member of the worker elected safety committee at the Troy mine. "We are always striving to find ways to improve safety, and it sure would be nice to have the partnership we had with MSHA in the past."

Rehberg Looks Into Attack on Montana's Mining Industry at Oversight Hearing for MSHA

05/09/11

WASHINGTON, D.C. – Montana's Congressman, **Denny Rehberg**, today submitted questions to the Mine Safety and Health Administration (MSHA) following an oversight hearing in the House Appropriations Subcommittee on Labor, Health and Human Services, and Education, which he chairs. After a string of frivolous citations and fines, Montanans contacted Rehberg to express their concerns that MSHA's mission of working with mine operators to improve workplace safety was being abused to harass and even destroy the resource extraction industry and all the jobs associated with it.

“Workplace safety is an absolutely critical goal, which is why that's the top priority of the Mine Safety and Health Administration – or at least it should be,” said Rehberg. “Looking over this agency's actions over the past two years, there's growing concern that an under-trained staff and a growing list of frivolous citations shows the agency's focus has shifted from industry oversight to an activist environmental agenda. If this is the case, not only does workplace safety then take a back seat, but the economy suffers from needless over-regulation.”

Rehberg and members of his subcommittee questioned MSHA Assistant Secretary of Labor **Joseph Main**, along with Occupational Safety and Health (OSHA) administrator **David Michaels**. Rehberg drew on numerous examples of frivolous citations from mines across the country, including the Troy Mine in northwest Montana, where, for instance, the mine was cited for a violation of a burnt out light bulb in an unused 4x8 closet, and when an employee filled out a form using “Troy Mine, Genesis Inc.” instead of “Genesis Inc., Troy Mine.”

At the hearing, congressional leaders expressed concerns over a 2010 government audit that revealed more than 25 percent of MSHA inspectors believe they have not been properly trained. This was highlighted by the example of an inspector citing an operator for an alleged failure to conduct a pre-shift examination of a piece of equipment, even though, by MSHA's own definition, the equipment did not require such an exam. That citation was later vacated.

One particularly egregious example involved a September 23, 2010 incident in which two different coyotes were spotted around the maintenance shop, the welding shop, and the employee parking lots. This was construed as “imminent danger” – so the law requires that all miners be removed from the vicinity when the coyotes are present. Moreover, all miners were required to attend a safety meeting reminding them of the danger of coyotes and other wild animals and of the procedures to take when the coyotes are spotted on mine property.

“I'd like to see MSHA live up to the Obama Administration's claims that they're working for a better economy instead of using bureaucrats to implement excessive policies that Congress and the American people don't want,” said Rehberg. “With new technology and stringent oversight, the resource industry has made great strides in workplace safety. It's time to recognize that, and continue working together for good jobs and prosperous communities.”

Bill Summary & Status
112th Congress (2011 - 2012)
H.R.1158
CRS Summary

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H.R.1158
Latest Title: Montana Mineral Conveyance Act
Sponsor: [Rep Rehberg, Denny](#) [MT] (introduced 3/17/2011) Cosponsors (None)
Related Bills: [S.647](#)
Latest Major Action: 12/1/2011 Placed on the Union Calendar, Calendar No. 199.
House Reports: [112-299](#)

SUMMARY AS OF:
3/17/2011--Introduced.

[+]
FEEDBACK

Montana Mineral Conveyance Act - Requires the Secretary of the Interior, if Great Northern Properties Limited Partnership (the Great Northern Properties) conveys to the Northern Cheyenne Indian Tribe all its mineral interests underlying specified aggregate tracts of land in Montana within the Tribe's reservation (the Cheyenne tracts), to convey to Great Northern Properties all interest of the United States in and to the coal underlying specified unleased federal tracts in Montana outside of the Tribe's reservation.

Requires the Northern Cheyenne Tribe to waive each legal claim relating to the failure of the United States to acquire in trust for the Tribe the private mineral interests underlying the Cheyenne tracts as part of the Tribe's reservation.

Instructs the Northern Cheyenne Tribe and Great Northern Properties to jointly notify the Secretary in writing when they have agreed on a formula for the sharing of revenue from the coal produced from the federal tracts.

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Bill Summary & Status
112th Congress (2011 - 2012)
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H.R.509

Latest Title: To amend the Endangered Species Act of 1973 to provide that Act shall not apply to the gray wolf (canis lupus).

Sponsor: [Rep Rehberg, Denny](#) [MT] (introduced 1/26/2011) [Cosponsors](#) (52)

Related Bills: [S.249](#)

Latest Major Action: 1/26/2011 Referred to House committee. Status: Referred to the House Committee on Natural Resources.

SUMMARY AS OF:

1/26/2011--Introduced.

[+]
FEEDBACK

Amends the Endangered Species Act of 1973 to provide that such Act shall not apply to the gray wolf (canis lupus).

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Denny Rehberg
State of Montana

Appropriations Committee
Labor, Health and Human
Services, and Education
Energy and Water Development
Foreign Operations

Congress of the United States
House of Representatives
Washington, DC 20515

July 7, 2010

The Honorable Ken Salazar
Secretary of the Interior
U.S. Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Dear Secretary Salazar:

Earlier this year, a Department of the Interior (DOI) memo recommending 13 million acres for designation as new National Monuments was leaked to members of Congress. The document included 2.5 million acres in Montana, with an additional 4.1 million acres mentioned in related emails between your agency and the World Wildlife Fund.

Unfortunately, this proposed land grab is neither surprising nor unprecedented. In the waning hours of the Clinton Administration, federal bureaucrats locked up tens of thousands of acres in Montana when it created the Upper Missouri River Breaks National Monument. At the time, officials claimed to have listened to Montanans prior to making that decision, a decision that ultimately was very controversial.

As a result, Montanans remain skeptical when they hear similar promises from the federal government today. You echoed these promises during a hearing of the Senate Subcommittee on Interior Appropriations, where you guaranteed a "conversation and a dialogue" with local citizens before decisions are made regarding new National Monuments.

With this in mind, I encourage you to visit the lands referenced in the leaked document, the so-called *Montana's Northern Prairie*, to start a dialogue with Montanans who are rightfully concerned about the future of their lands. I'd like to extend an invitation, on behalf of all those who were left out of the discussions, asking you to make an official visit to our great state to meet with my constituents and me.

The current Administration claims to be the most open and transparent in history, yet it blatantly excluded affected landowners, ranchers, farmers, elected officials, outdoor recreationists and hunters from these discussions. Instead, the Administration chose to exclusively seek the advice of powerful special interest groups, and it refuses to make public thousands of pages of public documents.

While we don't always see eye-to-eye, I think we can both agree that Montanans should have a seat at the table when decisions are made that affect our public lands. Thank you for your

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consideration of this request, and please don't hesitate to contact my office if I can be of further assistance.

Sincerely,


Denny Rehberg
Member of Congress

489153

RECEIVED

2010 JUL -7 AM 11:09

2010 JUL -7 AM 11:09

Rehberg Questions EPA Overreach of Clean Water Act Authority

04/18/11

Dear Administrator Jackson and Assistant Secretary Darcy:

In December 2010, the Environmental Protection Agency and Corps of Engineers (collectively, the “Agencies”) sent draft “Clean Water Protection Guidance” to the Office of Management and Budget for regulatory review. The intent of the document is to describe how the Agencies will identify waters subject to jurisdiction under the Federal Water Pollution Control Act of 1972 (more commonly known as the “Clean Water Act”) and implement the U.S. Supreme Court’s decisions in *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers (SWANCC)* and *United States v. Rapanos (Rapanos)* concerning the extent of waters covered by the Act. Further, this document would supersede guidance that the Agencies previously issued in 2003 and 2008 on determining the scope of “waters of the United States” subject to Clean Water Act programs.

In our view, this “Guidance” goes beyond clarifying the scope of “waters of the United States” subject to Clean Water Act programs. Rather, it is aimed, as even the Agencies acknowledge, at “increas[ing] significantly” the scope of the Clean Water Act’s jurisdiction over more waters and more provisions of the Clean Water Act as compared to practices under the currently applicable 2003 and 2008 guidance. (“Guidance,” at 1.)

It appears that the Agencies intend to expand the applicability of this “Guidance” beyond section 404 to all other Clean Water Act provisions that use the term “waters of the United States,” including sections 402, 401, 311, and 303. Moreover, the Agencies intend to “alleviate the need to develop extensive administrative records for certain jurisdictional determinations” (“Guidance,” at 1), thereby shifting the burden of proving the jurisdictional status of a “water” from the Agencies to the regulated community, and thus making the provisions of this “Guidance” binding on the regulated community.

In light of the substantive changes in policy that the Administration is considering with this “Guidance,” we are extremely concerned that this “Guidance” amounts to a de facto rule instead of mere advisory guidelines. Additionally, we fear that this “Guidance” is an attempt to short-circuit the process for changing agency policy and the scope of Clean Water Act jurisdiction without following the proper, transparent rulemaking process that is dictated by the Administrative Procedure Act.

This “Guidance” would substantively change the Agencies’ policy on waters subject to jurisdiction under the Clean Water Act; undermine the regulated community’s rights and obligations under the Clean Water Act; and erode the Federal-State partnership that has long existed between the States and the Federal Government in implementing the Clean Water Act. By developing this “Guidance,” the Agencies have ignored calls from state agencies and environmental groups, among others, to proceed through the normal rulemaking procedures, and have avoided consulting with the States, which are the Agencies’ partners in implementing the Clean Water Act.

The Agencies cannot, through guidance, change the scope and meaning of the Clean Water Act or the statute’s implementing regulations. If the Administration seeks statutory changes to the Clean Water Act, a proposal must be submitted to Congress for legislative action. If the Administration seeks to make regulatory changes, a notice and comment rulemaking is required.

We are very concerned by the action contemplated by the Agencies, and we strongly urge you to reconsider the proposed “Guidance.”

Thank you for your attention to this matter.

Sincerely,



Our membership and services span the globe

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July 29, 2011

Water Docket
Environmental Protection Agency
Mail Code 2822T
1200 Pennsylvania Ave., NW
Washington, DC 20460

Attn: Docket ID No. EPA-HQ-OW-2011-0409

RE: U.S. EPA and U.S. Army Corps of Engineers Guidance Regarding Identification of Waters Protected by the Clean Water Act

Dear Sir/Madam:

The Northwest Mining Association (NWMA) appreciates the opportunity to comment regarding the Environmental Protection Agency (EPA) and the Army Corps of Engineers (Corps) proposed “Guidance Regarding Identification of Waters protected by the Clean Water Act,” 76 Fed. Reg. 24,479 (May 2, 2011). NWMA views the draft guidance as an effort by the EPA and the Corps to implement, through mere guidance, the goals of the Oberstar/Feingold Clean Water Restoration Act legislation that justifiably failed in the 111th Congress.

NWMA is a 116 year old, 2,000 member, non-profit, non-partisan trade association based in Spokane, Washington. NWMA members reside in 42 states and are actively involved in exploration and mining operations on public and private lands, especially in the West. Our diverse membership includes every facet of the mining industry including geology, exploration, mining, engineering, equipment manufacturing, technical services, and sales of equipment and supplies. NWMA’s broad membership represents a true cross-section of the American mining community from small miners and exploration geologists to both junior and large mining companies. More than 90% of our members are small businesses or work for small businesses. Most of our members are individual citizens.

The proposed guidance, unlike previous guidance documents, will be used by the EPA and the Corps (Agencies) to interpret the term “waters of the United States” in the context of all programs authorized under the Clean Water Act (CWA), including Section 404 discharges of dredged or fill material, the Section 402 National Pollutant Discharge Elimination System (NPDES) permit program, the Section 401 state water quality certification process, and Section 303 water quality standards and total maximum daily load programs. As such, the proposed guidance will pervade all stages of mining operations, and will have a substantial negative impact on NWMA members and the U.S. mining industry.

The Agencies' decision to issue guidance on this topic as opposed to a rulemaking runs contrary to the expressed views of a majority of the U.S. Supreme Court and the requirements of the Administrative Procedure Act (APA). Despite repeated claims by the Agencies that they would promulgate a rulemaking, they have not. Instead, the Agencies continue to make important changes to their regulations and expand their CWA jurisdiction through mere guidance, shortcutting critical rulemaking requirements such as providing a response to public comments, providing a rationale and factual basis for an agency decision and producing a final decision that can be judicially reviewed.

The proposed guidance represents a significant rewrite of the current regulations, guidance and agency policy that governed jurisdictional determinations for the history of the regulatory program. It expands the universe of waters that will be considered "traditional navigable waters" by including for the first time ever, waters that support one-time recreational use. In addition, the proposed guidance gives new and expanded regulatory status to "interstate waters," equating them with traditional navigable waters, and in addition, making it easier to find jurisdiction for adjacent wetlands, tributaries and other waters judged by a newly crafted significant nexus test. The Agencies have expanded their CWA jurisdiction in a manner unsupported by their regulations and the Supreme Court decisions in *SWANCC* and *Rapanos*.

The proposed guidance completely eliminates any requirement that a hydrologic connection is necessary and further expands jurisdiction beyond what Congress and the Supreme Court intended by applying a broadened view of Justice Kennedy's significant nexus standard not only to wetlands (as Kennedy did in *Rapanos*) but also to tributaries and isolated water. Furthermore, the proposed guidance allows for decisions to be based on general scientific literature describing functions applicable to the types of waters in question, in lieu of actual case-specific analysis of the water itself.

Therefore, according to the proposed guidance, an entire group of waters could be determined jurisdictional without ever performing an analysis of those waters. This approach appears inconsistent with the Kennedy decision and not scientifically based. Moreover, when asked, the Agencies could not name a water that would not provide at least one of these functions, making the point that use of functionality to find federal jurisdiction is overly inclusive and threatens to capture all waters.

In addition, the proposed guidance creates a completely new concept of allowing for "aggregation" of the contributions of all similar waters *within an entire watershed*," making it far easier to establish a significant nexus between these small intrastate waters and newly expanded roster of traditional navigable waters. This novel concept results in a blanket jurisdictional determination for an entire class of waters within an entire watershed. Similarly, a blanket determination imposing federal CWA jurisdiction diminishes private property and mineral lease values while neglecting important due process rights of those individual property owners.

The proposed guidance is inconsistent with the Agencies' regulations and the Supreme Court decisions. For example, the current regulations say nothing about ditches, but the proposed guidance regulates all roadside and agricultural ditches that have a channel, have an ordinary

high water mark, and can meet 1 of 5 characteristics. In addition, the current regulations determine jurisdiction over all waters not in any of the other categories (also known as the “other waters”) based on certain specific connections to interstate commerce. The proposed guidance replaces this standard with the significant nexus test. Moreover, the proposed guidance defines a significant nexus as anything that is “more than speculative or insubstantial,” thus turning Justice Kennedy’s “significant” nexus into an “any” nexus standard. These and numerous other changes made by the proposed guidance that significantly broaden the Agencies’ CWA jurisdiction find no support in the Supreme Court decisions.

The Agencies have acknowledged some of the material economic impacts of the proposed guidance. EPA has estimated the annual costs of implementing the guidance will be between \$87 million and \$171 million, and the EPA arrived at that number without taking into consideration permitting costs, the increased delays associated with expanded federal jurisdiction and the costs of new land use restrictions. The proposed guidance will impose a significant economic burden on NWMA’s members.

The Metals Economics Group produces an annual report “World Exploration Trends” which tracks global exploration and industry trends. The 2011 report estimates that nonferrous exploration budgets for 2010 totaled \$12.1 billion. Despite significant mineral resources, the United States attracts only 8% of total world-wide exploration dollars. An annual report prepared by Behre Dolbear entitled “2011 Ranking of Countries for Mining Investment -- Where ‘*Not to Invest*’” provides insight into why the U.S. lags in attracting job creating exploration dollars.

According to the Behre Dolbear report, the U.S. ranks dead last in terms of permitting time among the top 25 mining countries in the world. Consequently, the U.S. is seeing fewer investment dollars for new projects, leading to an increased reliance on foreign imports. According to the U.S. Geological Survey, the U.S. is now 100% dependent on foreign sources for 18 strategic nonfuel mineral materials and more than 50% dependent for 43 nonfuel minerals, despite having abundant resources of many of these materials.

The Agencies’ proposal to unilaterally expand federal jurisdiction under the CWA on top of an already broken permitting process will lead to even more permitting delays, exacerbating the Nation’s dependence on foreign minerals and metals and frustrating job creation.

This Nation is in the midst of a fragile economic recovery. In January, President Obama acknowledged in his Executive Order on Improving Regulation and Regulatory Review that through regulations we at times place “unreasonable burdens on business – burdens that have stifled innovation and have had a chilling effect on growth and jobs.” The president’s Executive Order intends to root out those regulations. It is greatly disappointing to see the Agencies release the proposed guidance in direct contradiction to the common sense Executive Order from President Obama.

In addition, the proposed guidance has drawn bipartisan opposition in Congress. In an April letter to EPA Administrator Lisa Jackson and Assistant Secretary of the Army for Civil Works Jo Ellen Darcy, 170 Members of Congress expressed their concerns regarding the guidance.

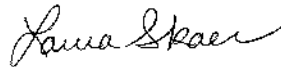
Subsequently, the House Appropriations Committee included funding prohibitions for the Agencies from using any funds to implement, administer or enforce a change to a rule or guidance document pertaining to the definition of waters under the jurisdiction of the Clean Water Act. Clearly, there is overwhelming opposition to the Agencies' proposal.

In conclusion, the proposed guidance is intended to and will have a material impact on CWA permitting and enforcement nation-wide because it broadly expands the Agencies' CWA jurisdiction. As such, the Agencies violated the APA and the express views of the Supreme Court by issuing guidance on this topic as opposed to a formal rulemaking.

The Agencies purport that the proposed guidance will increase clarity and improve the consistency and predictability of Corps and EPA jurisdictional determinations, but the guidance itself is convoluted and complicated. The proposed guidance will undermine the federal-state CWA partnership that has long existed, resulting in confusion and further delaying permitting processes and will unnecessarily stifle job creation. Therefore, we urge you to withdraw the proposed guidance immediately.

Thank you for your consideration of our comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Laura Skaer", written in a cursive style.

Laura Skaer
Executive Director

InterAction Center



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Constituent Services

Rehberg Pushes Feds to Act Quickly to Address Libby Economic Development



09/06/11

WASHINGTON, D.C. – Montana's Congressman, **Denny Rehberg**, is taking the U.S. Fish and Wildlife Service (FWS) to task for ongoing delays in the processing of the Montanore project near Libby, Montana. In a letter to FWS Director **Daniel Ashe**, Rehberg encouraged a timely completion of the environmental review that is necessary for Montanore to move forward in the process of creating jobs in Lincoln County and bolstering economic development.

"When I tell people that the way government creates jobs is to get out of the way and let Montana businesses do what they're inclined to do, the situation in Libby is a prime example of what I'm talking about," said Rehberg, a member of the Congressional Western Caucus. "Federal bureaucrats have created a daunting list of hoops for job-creators to jump through. We all want to protect the environment, but lengthy and unnecessary administrative delays in processing environmental assessments don't protect the environment and they sure don't get folks back to work."

The Montanore project near Libby was originally permitted in 1993, and has been in the re-permitting process since 2003.

The full letter is below:

Dear Director Ashe:

I'm writing in regards to the continued delay with your agency's processing of the Montanore project, which is located near

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Libby, Montana.

Last month, the Forest Service completed and submitted a Biological Assessment (BA) on the project to the Fish and Wildlife Service. It's my understanding that the Ecological Service Office, located in Helena, has yet to review the BA or even begin their Biological Opinion (BO), despite the Forest Service formally requesting consultation begin.

With that in mind, I request a response to the following questions:

1. When did your agency receive the BA from the Forest Service?
2. Have you completed an initial review of the BA issued by the Forest Service?
3. Has a staff member been assigned to this project?
4. What is your regulatory time frame to complete the BO?
5. Will your office meet this regulatory time frame, and if not, why?

As you know, this project holds the potential to provide Lincoln County, Montana, with new employment opportunities, which are desperately needed in a region facing double digit unemployment rates.

Please make every effort to complete the environmental review process within the regulatory time frame. Thank you for your consideration of this request, and please don't hesitate to contact my office if I can be of further assistance.

Sincerely,